

Columbus' Unofficial Greenspace: contested public property

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## Chapter 1

### Introduction: perspectives and context

Allow me to define both a kind of space and a concept. This paper will use the term “unofficial greenspace” or, more generally, “unofficial space” to mean any state-, county-, or city-owned parcel of urban land that is undeveloped, undefined, undesignated and, on its surface, appears to be unused. In some respects it is easier to define these types of spaces negatively. They are not parks, plazas, or nature areas. They are not privately owned. They are not riverbanks, highway or railroad rights-of-way, or the excess land around overpasses and ramps. They don’t have signs that invite the public in or even inform the public that they are publicly owned. They don’t have names. They don’t appear on maps except perhaps as a splash of green. They are everything else. They are, fundamentally, pieces of discrete, recorded property; a designation that carries with it a set of meanings and power relations which will be explored. This definition could easily be expanded to include riparian areas, highway and railroad rights-of-way and other bits of land that are not recorded as parcels, and we will necessarily digress at times to examine them. But the parcel designation provides something solid to work with—a recorded, bounded area. And the fact that so many exist speaks volumes about our system of urban land use planning.

Thinking about such spaces only in terms of property however, masks other relationships and experiences. Property implies ownership. But people in cities make property claims that fall outside of the ownership model (Blomley, 2004). Consequently it will be helpful to also view unofficial space as a concept—one that stems from social interactions that occur outside the ownership model *in*, as opposed to *on*, unofficial space. The imbuelement of the social into the

spatial, Cresswell (1996) informs us, creates a “place”—a “social space.” So we might just as well speak of an “unofficial place” knowing that the social is implied. Meanwhile, Delaney (2010) argues that a truer understanding of social and legal events results by not dissociating them from the material spaces in which they are performed—by not relying only on discursive, abstract interpretations. The conceptual idea of unofficial space is important as this paper argues that people really make unofficial space what it is. For without people, these parcels of land would be just that—parcels of land void of social meaning. While one could productively examine the ecology, genesis, and quantifiable aspects of unofficial greenspace, this paper focuses on social, qualitative aspects. In doing so, I argue that ambiguities and uncertainties are inherent in unofficial greenspace and these manifest themselves in unique social relations and regulatory practices. But it is a two-way street—those same relations and practices contribute to the making and essence of unofficial space to begin with.

This undertaking has two purposes—one broad and one specific. The first is to give a concrete setting in which to explore the geography of law. The second is to call attention to the spaces themselves, then to elucidate their details, contradictions and attendant conflicts, and finally to assert their importance for the homeless. Unofficial spaces are of interest independent of the homeless. But upon commencing this study, it didn’t take long to realize that the homeless—more than any other group of people—make unofficial space what it is. Put simply, unofficial space becomes far more intriguing after placing the homeless in it. They are therefore given prominence in this paper.

Contestations over public space are especially important for the homeless. To an extent, their lives depend on judgments as to which public spaces are viable and safe to subsist on. Many of the homeless have well-developed geographical knowledge. “A tramp’s environmental

knowledge must include all the intricacies of how the host group classifies space and specifically the social value that it attaches to different landscapes. Gaining such knowledge is the most important of all his strategies” (Duncan, 1978: 27). For the homeless, who are almost always in public, private activities are necessarily performed in public (Mitchell, 1995). As public space is systematically taken away from the homeless in many cities, so the homeless become less free—“a person who is not free to be in any place is not free to do anything; such a person is comprehensively unfree” (Waldron, 1991: 302).

In Columbus there are hundreds of acres of unofficial greenspace, much of which is documented herein. Other mid-sized to large U.S. cities contain railroad tracks, highways and rivers and have also experienced rapid growth—all of which are factors in creating undeveloped, interstitial spaces. It is therefore safe to presume that unofficial spaces occur elsewhere. So this study need not be confined to Columbus. Others may find it beneficial to take a closer look at these types of spaces in their own cities to glean just a bit more insight into the workings of urban space, and that would indeed be a positive outcome of the present work.

A number of overarching questions will guide this investigation. (1) What laws and practices govern unofficial greenspace? (2) What can we learn about the nature of public space in general through the concept of unofficial space? (3) How do the homeless influence the guiding regulatory regimes of unofficial space? (4) How does the contestation of unofficial space play out? To what effect? Since no substantive evidence has yet been proffered, the reader may understandably conclude it is presumptuous to imply that unofficial space is contested at all. To this I would simply note that just one “No Trespassing” sign posted on public property is enough to indicate a contention. There is that, and much more.

Throughout this work I will refer to these publicly owned parcels of property as *public*. But this in itself is presumptuous, contestable and potentially problematic even though definitionally public property “means any real property owned by the city or easements held or used by the city, other than a right-of-way” (Columbus Code of Ordinances). The city, state or county may not (and indeed probably does not) regard many unofficial spaces as truly public. In other words, public property might not always be treated or viewed as truly public property open and free to use. The nature of public property and the question of just who constitutes the public are in question. For example, “[a]lthough homeless people are nearly always in public, they are rarely counted as part of *the public*” (Mitchell, 1995: 118). This work aims to expose some of the contradictions surrounding public space and in doing so make clear that the term ‘public’ is itself ambiguous and up for interpretation. Ultimately, however, because control of space is an exercise in power, relations among people, property and the public will never be completely settled (Staeheli and Mitchell, 2008). In calling the spaces under consideration “public” I am, in a sense, revealing a bias or a personally held conviction. As a law-abiding citizen of Columbus, I presume and believe that I have a right to enter public *land* without criminal intent and in good faith—especially land where no hours are posted and the city has no a priori reason to exclude me. Publicly owned *buildings* on the other hand are fundamentally different. I have no expectation to be allowed to enter the library after hours, no right to walk uninvited into the mayor’s office and no privilege to enter the county jail. Some interesting legal cases involving actions on public property will be investigated in Chapter 3.

I freely use the word “homeless” in this paper to describe many of the people that frequent unofficial greenspace. Kleinig (1993), however, claims that “[h]omelessness as such does not constitute a very helpful social category. Although it is a presenting feature of certain

persons, it is not necessarily the social factor of most importance. For homelessness may come about for many reasons, and the provision of accommodation may not give them what, fundamentally, they most need” (292). When someone is homeless, it is usually the first description used for categorization—ahead of gender, race, age, or anything else. I use the term for convenience only, while recognizing that it is homogenizing and potentially problematic. I use it as a non-derogatory, all-encompassing term where others may variously use words such as ‘transient’, ‘tramp’, ‘bum’, ‘vagrant’, or ‘hobo’. None of these terms is terribly helpful and all are degrading. Alas this is the vocabulary that we tend to use and understand. Indeed some of the people to whom I refer might not even be homeless. The common denominator, however, and the one of utmost importance in this context is that the people I generally refer to as “homeless” occupy and use unofficial greenspace and these people tend to live on the margins of society in some way or another.

While there is a substantial and rich literature on public space in general—its politics, its policing, its privatization, its discontents, its oppressive policies, its necessity for the homeless—the very specific type of public space which I am engaging is neglected. Blomley (2004) has pointed out that some lands fall outside the public-private binary like forms of ecosystem management (one of which we will see), Native American lands, corporate estates and common property estates. Delaney (2010) too, has realized that while “public space is commonly regarded as singular: public space is that which is not private...[it is] more accurately understood as multiple, variegated, and heterogeneous; as variously and contentiously imagined; as diversely performed” (87). Duncan (1978), when examining how “tramps” view public space, perhaps comes closest to acknowledging that a novel and interesting category of public space exists: “Marginal space includes alleys, dumps, space under bridges, behind hedgerows, on the roofs of



buildings, and in other no man's lands such as around railroad yards, which are not considered worth the cost of patrolling" (27). I believe that the quantity and quality of many spaces that the homeless use are poorly understood and underappreciated. In many instances, the homeless are said to inhabit "public parks and streets." That is not good enough. In order to gain a fuller understanding of urban geography, it is important not to gloss over the specific kinds of spaces that the homeless use but to take a critical look at them. Upon doing so, it becomes clear that the mental image of "public parks and streets" is woefully inadequate—hence the definition of unofficial space.

Unofficial space is a peculiar variety of public space. And as we will see, is imagined and performed in multiple ways, some of which would not be possible elsewhere. A closer examination of unofficial greenspace in an urban setting has the potential to deepen our understanding of public space in general and to provide a specific example of a space where general concepts already recognized can take shape on the ground in a unique context.

Reading the work of others in the fields of law, geography and homelessness while simultaneously observing and engaging public spaces in Columbus and looking at local news sources regarding these interrelated topics has been fascinating. It is all too easy to assume that one's own city is somehow resistant to the insidious intrusions of political and legal authority into public space that have been documented elsewhere. This isn't so; the manifestations of authority to shape public space just vary here and there. An example: rather than installing park benches with dividers so people cannot recline (a textbook case of subtle anti-homeless planning), existing benches were simply removed in a Columbus park. It is important to make connections in this manner to show that public space is everywhere contested and its nature is constantly changing. So rather than looking to find what others have observed, we can look to

see what Columbus in particular is like and then relate our observations to broader ideas. When viewed collectively, seemingly isolated incidents can be melded together to form a clearer picture of what happens in and to public spaces in response to its occupation by certain people. While this report does not pretend to offer a coherent, overarching framework or theory that ties together everything that we know so far, at the least it could add another dimension—an example—to make our picture of public space that much sharper. Every city, every public and every space is different and unique in particular ways. This investigation shows that Columbus is a viable and legitimate proving ground for the theories of public space.

David Delaney, in writing on the social and legal nuances of space in general, captures and clarifies one of the key arguments of the present work as it relates to unofficial space:

[Social] spaces are meaningful—they signify, represent, and refer. They are, therefore, interpretable. The interpretations of social space may serve as unexamined premises for conclusions. The meanings in play may register widely within a culture or community (keep out) or they may be highly technical, specialized...or even idiosyncratic. But meanings are not extrinsic to the spaces; rather, spaces are *constituted* by their meanings, or, as it is commonly expressed, such meanings are “inscribed” onto segments of the lived, material world. Insofar as the meanings so inscribed are ambiguous (and amenable to reinterpretation) then so are the spaces, and so are the situations that unfold with reference to these spaces. (2010: 4-5)

In the chapters that follow, empirical evidence is provided to support my argument that the meanings and activities associated with unofficial greenspace are varied, subjective, and ripe for (re)interpretation. Thus, following Delaney, we would conclude that the spaces *themselves* are ambiguous as are the stories that play out in those spaces. The ramifications of ambiguity have

real consequences for the homeless and, as Mitchell (1995) would argue, to the extent that ambiguity leads to greater (state) control of these spaces, for democratic possibilities as well.

In order to introduce some kind of organization, this study conceptualizes unofficial greenspace as being overlain by, or composed of, three “layers.” First, there is physical reality on the ground. What is the space *like* to be *in*? Who uses it? What signs are present? How does one access it? Second, there are official, albeit abstract, lines inscribing these spaces that mark them as property. Parcels are part and parcel to the ownership model of property, described by Blomley (2004) as fixed, natural, objective, and concerned with acquisition and transfer only. However, the ownership model does not, and in fact cannot, account for the empirical and political diversity of property in the city. “It is quite inadequate . . . to understand public property as having a single, simple owner” (Staeheli and Mitchell, 2008: 24). Delaney (2010) wonders if it is appropriate to conceive of local governments as “owners” of streets, parks, and public fora—with the attendant “right to exclude”—or better to understand them as “trustees” or “managers” working for “the public.” For the purposes of this paper, the ownership model (layer) is embodied by the county auditor’s database and parcel map. Third, there is a layer of laws and policies, interventions and legal cases which move around, and sometimes into, unofficial space. These help shape how society imagines the homeless and the spaces they live in. This is the most abstract of the layers and as we will see, it is often difficult to get a handle on *where* exactly a relevant law or sign applies.

There are, of course, connections and interplay between these conceptual layers, and the nature of the layers changes through time. Ownership partially determines which laws are relevant and this in turn can influence how things appear on the ground, for example. The main reason for thinking about unofficial space in terms of these layers is to settle on a framework for

pointing out and examining relationships, anomalies and contradictions within and between layers. Mitchell (2003) claims that there is a central contradiction in public space, namely “that it demands a certain disorder and unpredictability to function *as* a democratic public space, and yet democratic theory posits that a certain order and rationality are vital to the success of democratic discourse” (130). As Chapter 2 shows, there is an element of disorder and unpredictability in unofficial space, but whether this furthers democracy is debatable as Chapter 3 reveals some very undemocratic tendencies associated with such space. As pondered above, unofficial spaces may not even be intended to *be* public spaces. I argue, however, that the latent characteristics of disorder and unpredictability found in unofficial spaces—often brought about by the homeless—tend to make the spaces more public than they would be otherwise. Mitchell continues: “In practice, the limits and boundaries of ‘democracy’ seem to be determined as much through transgression...as through legal or bureaucratic ordering” (130). By their very presence, the homeless confound ideas of “the public,” public space and democracy. The next two chapters, will, among other things, show how. So let us turn to the spaces themselves for a tour. Perhaps the reader is still unclear about what, exactly, unofficial greenspace is.

## Chapter 2

### Parcels, People, and the lay of the Land

This chapter provides a detailed introduction to the actual parcels of unofficial land under consideration. The parcels are organized into six distinct sets roughly according to location and function. While some sets of parcels clearly belong together spatially and functionally, other sets are more diverse, with parcels widely separated and little or no cohesion between them. This is done merely for convenience and the method will become clearer as we progress. When I state that multiple parcels can have a common and coherent *function*, I mean that there is a physical entity or a social use that ties them together—a river, for example, or a bike path (which could be considered both a physical and a social link). This is a standalone chapter because of the emphasis I am placing on the actual parcels of unofficial space. However, as mentioned in the introduction, the type and use of adjacent parcels and rights-of-way and riverbanks and railroads are crucial in the making and maintenance of unofficial parcels and will necessarily be considered. And occasionally, enlightening comparisons will be made with official space. I contend that there is in fact a greenspace continuum that ranges from fully official and claimed to unofficial and substantially unclaimed. In other words there are different *degrees* of designation, use, policing and publicity of greenspace—different degrees of ‘unofficialness’—and this can change over time as will be shown.

Two of the three conceptual layers will be considered in this chapter—parcels as property and on-the-ground reality. This is done because parcel ownership plays a strong role in shaping what is observed in these spaces, along with the fact that ownership is part of what defines unofficial space in the first place. Throughout this chapter I will offer analysis of the interplay

between these layers and point out certain ironies and ambiguities. Consider this a guided tour of unofficial Columbus. While this is not an exhaustive cataloguing of all such parcels in Columbus (or even in each area), the selection does serve to highlight many important concepts and observations, and it should also serve as evidence of the extent and diversity of these spaces. The tour begins to the west of the downtown core and follows the Scioto River southeast past downtown, then heads north along the Olentangy River, ending in Clintonville, a community just to the north of Ohio State’s campus.

### The City’s Quarry

Table 1, below, is derived from the Franklin County Auditor’s database, the most direct and obvious way of obtaining information about parcels of land in the county. The data contained therein, while extensive and normally accurate as it pertains to residential parcels, is often incomplete and misleading when it comes to publicly owned parcels. This is presumably because neither the state nor municipalities pay property taxes, so careful recording may be regarded as unnecessary. Prospective developers, however, may desire better information. Table 1 shows the three parcels that together form an abandoned quarry that the city now owns.

Parcel ID	Owner	Acreage	Land Use Code	Transfer Date	Notes
010-153724	City	23.48	640	1973	"developed", "sludge piping", previous owner: Marble Cliff Quarries Co
010-153696	City	110.872	640	2007	"developed", previous owner: Marble Cliff Quarries Co
010-153709	City	64.61	640	2007	"developed", "undeveloped", "pasture", prev. own: Marble Cliff Quarries Co

Table 1: The quarry’s constituent parcels. The land *use* code 640 stands for “exempt property owned by municipalities.” Source: Franklin County Auditor (2011). Marble Cliff Quarries Co. owned and operated the largest limestone quarry in the U.S. for over a hundred years, of which these parcels were a part (Wikipedia, 2011).

The auditor's database is the best place to begin examining these spaces. Note one parcel is simultaneously claimed to be “developed”, “undeveloped”, and “pasture” in various sections of the datasheet for the parcel. Developed is defined to be “formerly raw land made useful by the availability of public infrastructure and occupied by useful structures” and undeveloped is defined to be “land which is vacant and lacks the essential features required to make it useful; raw land” (Franklin County Auditor, 2011). From personal observation, I can attest that there are no “useful structures” on parcel 010-153709 apart from tents erected by the homeless. The other two parcels have infrastructure that enables the dumping of waste materials either by truck or by pipe—hence the “sludge piping” installation noted by the auditor. The sludge is clearly visible entering the quarry lake in the satellite image displayed in Figure 1, below. My desire here is not

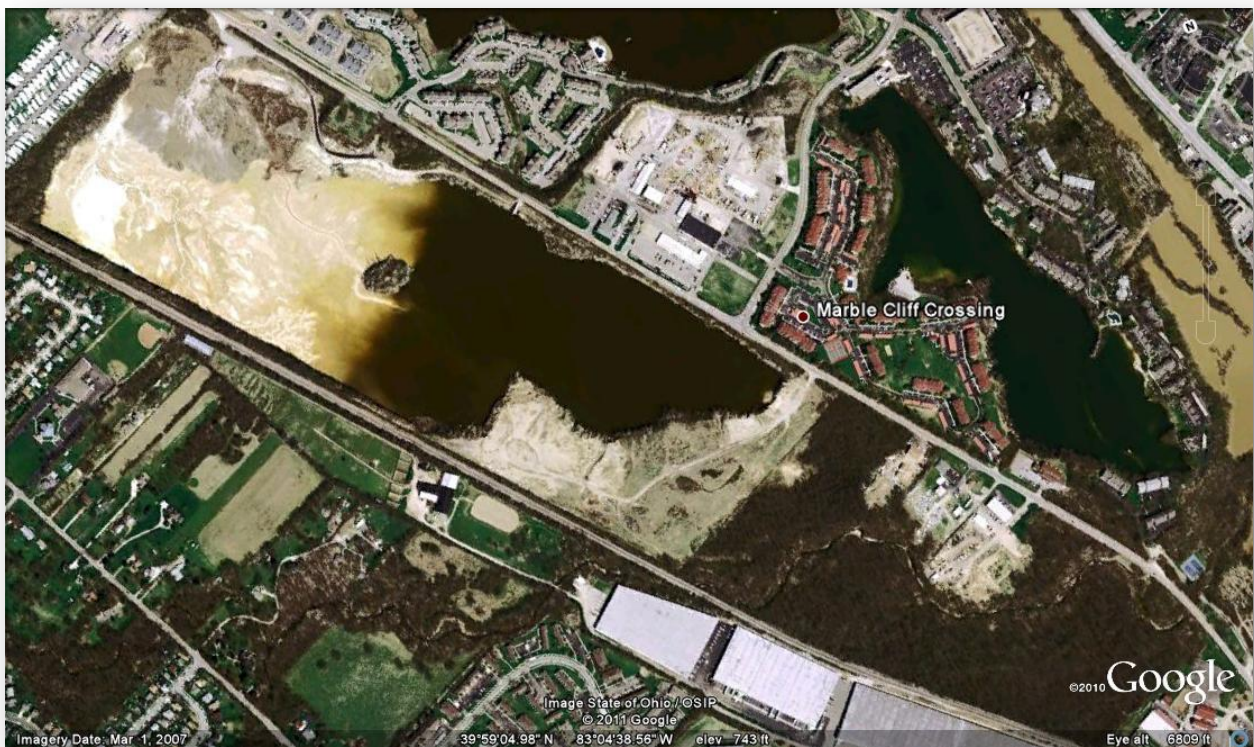


Figure 1: The City's Quarry—200 acres of public property valued at \$4.5 million (Franklin County Auditor, 2011) bounded by railroad tracks, McKinley Ave, the Columbus Police Academy and a trailer park. Note the discharge discoloring half of the lake. Image source: Google Earth (2011).

to pick apart and contest each word in the database and the definitions, only to note that other interpretations of this land are possible. Words like “structure”, “useful” and “raw” will mean different things depending on whether one is an ecologist, a city official, or homeless. This adds weight to Blomley’s (2004) claim that urban property “may be definitionally and politically more ambiguous and varied than the ownership model supposes” (14), where the auditor’s map of parcels and associated data embodies the ownership model.

Who has a right to use this land? Why is the auditor’s database one of the dominant ways of seeing the land? Maps and parcels and definitions are inherently political because specific people create and use them for specific reasons and in doing so foreclose on other possibilities—at least within the formal ownership model. Along with noting that property is also social in nature, Blomley (2004) concludes that by looking closely at property, we can see a great diversity of possibilities that the map can’t show. Other relationships are possible with land besides land-as-property, and homeless occupation is one.

The City’s Quarry is a discrete, well-defined area mostly ringed by fences and high vegetation which obscures any potential view. It is easy to drive by on McKinley Ave and not notice it. There are some rusted “No Trespassing” signs marking the perimeter but these appear to be left from its years as an active quarry. One such sign appears in the interior of the property implying that one isn’t already trespassing when it comes into view. The Quarry is far larger and more beautiful than any park for miles around yet it can’t be found on any map and an internet search yields only sites for apartments that contain “quarry” in their name on the opposite side of McKinley Ave that were developed on other former quarry lands. The only place to pass from public property into the quarry other than through the police academy which is presumably not a “public area of public property” (see Chapter 3), or from the fenced right-of-way along



McKinley Ave is at tiny Campbell Memorial Park, the site of an Adena Indian burial mound. This entrance is shown in Figure 2, below. Interestingly, the sign does not read “No Trespassing” and could easily be interpreted as “enter at your own risk.” The location and pronouncement of the sign are telling. This is the most convenient entrance to the City’s Quarry and while fenced, the breach is clearly known to an official. It would appear that no law is being violated upon crossing into the quarry at this location. The “danger” is apparently a steep incline, a water body and the “sludge.”



Figure 2: The public entrance to the publicly owned quarry. Amazingly, it is apparently not construed as an overt trespass to enter here although old “No Trespassing” signs appear at other, less accessible (and less visible) points that are probably left from its days as an actual quarry.

The forest at the southwest end of the quarry is complete with trails, bike jumps and evidence of homeless occupation and use. This type of appropriation of public space is contingent on the space being unofficial—for bike jumps, off trail excursions and homeless camps are not well-tolerated in parks or other more visible places. Tuttle Park, on the Olentangy

River just north of Ohio State's campus, for example, has been home only to ephemeral encampments while signs warn not to use or alter the materials of the woods in any manner. Indeed, this taking of public space depends upon inconsistent or absent enforcement, ambiguous representations and incongruous spatiality. But of course, the homeless are not scouring the auditor's parcel map or Google Earth. Their own agency and wherewithal to find and use places like the quarry contribute to the making of these spaces and shapes their very essence. The social in this case conflicts with the political and a viable unofficial space is born. Would we even be able to call the quarry public were it not for those of the public who enter freely and find it beneficial to do so?

### **The Lower Scioto Greenway and Environs**

This is an intriguing and intricate area just three miles west of the downtown core bounded on the east side by Grandview Ave and on the north by I-670 and its exit ramp to Dublin Rd. The southern and western boundaries are less clear (see Figure 3, below). There are a number of physical barriers that run roughly east-west that break up the area but have been important in creating the constituent unofficial parcels: the Scioto River, I-670, I-70, two sets of railroad tracks and McKinley Ave.

Table 2, below, shows all of the fully unofficial parcels that I have identified in this area. The county auditor defines "vacant" as it pertains to a parcel's status as "land which is ready for development having typical public infrastructure...or land which has been improved with structures which are unoccupied." It is clear, however, that most of these "vacant" parcels will never be developed because of physical barriers—interstates, railroads, and water bodies—that prevent vehicular access. Most unofficial parcels here and elsewhere are purported to have



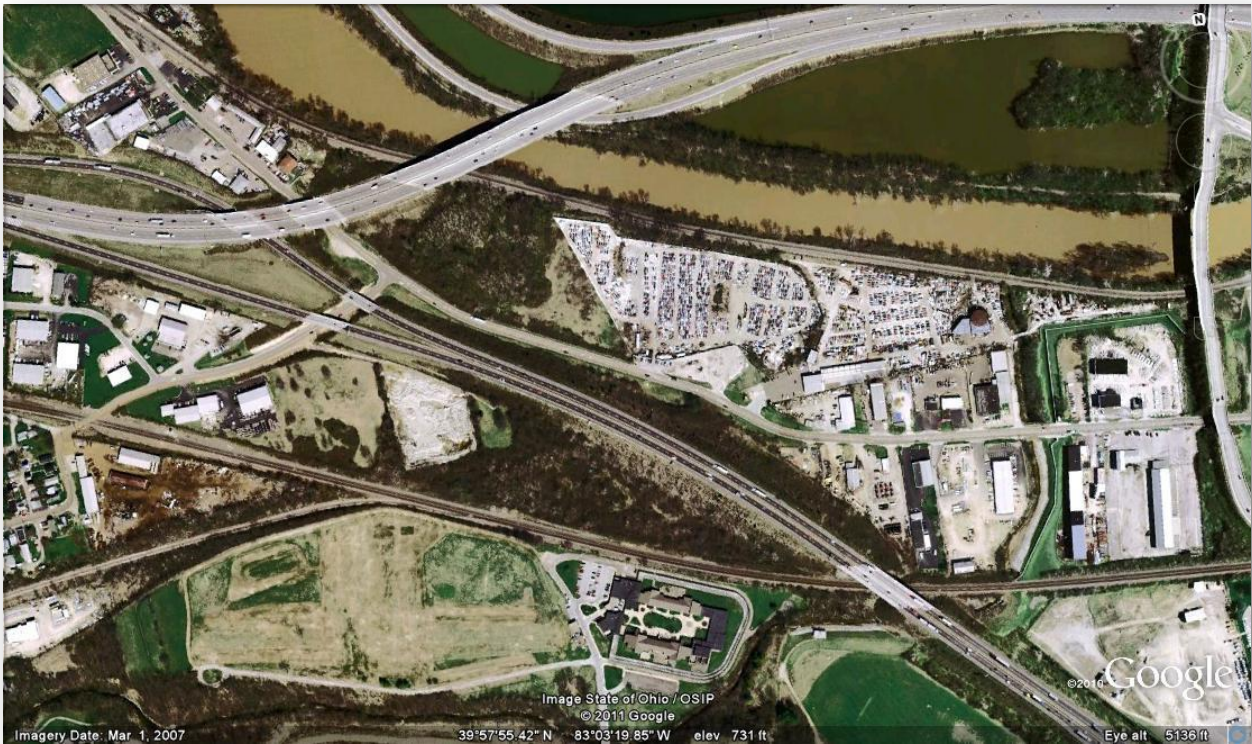


Figure 3: Satellite image of the Lower Scioto Greenway and Environs, a complex set of city and state parcels crosscut by a number of east-west transportation routes. The bike path itself is visible in the upper right of the image running west from Grandview Ave in a strip of trees. Source: Google Earth (2011).

access that is “paved.” For each parcel where this is simply not the case (unless the right-of-way of an interstate highway counts as paved access), I have noted that the auditor claims “paved access” for that parcel in the corresponding table. Thus far, we have encountered a number of contradictions and misnomers internal to the county auditor’s records, and there are more. As I have attempted to emphasize in the captions to the tables of parcels, the auditor conflates land *use* with land *ownership*, that is, the city owns a particular parcel, for example, and that parcel’s “use” is that the city owns it. Of course for purposes of taxation this is moot, but again the auditor is the primary source of information on parcels in the county.

Parcel ID	Owner	Acreage	Land Use Code	Transfer Date	Notes
010-129614	City	9.15	640	1973	"vacant", "undeveloped", "paved access" (i.e. Interstate 670)
010-129587	City	0.97	640	1973	"vacant", "undeveloped", access from path and 670
010-126634	State of Ohio	12.08	610	1960	"vacant", "undeveloped", site of bike bridge construction
010-104399	State of Ohio HWY	0.2	610	1971	"undeveloped", "developed"
010-103687	City	15.62	640	1973	"vacant", "paved access", site of bike bridge construction
010-103685	City	5.34	640	1973	"vacant", "paved access"
010-153713	State of Ohio Forfeiture	2	615	2011	"vacant", "undeveloped", "paved access"
010-146290	State of Ohio	41.33	610	1920	"vacant", "paved access", bifurcated by private property
010-136584	State of Ohio HWY	3.849	610	1972	"vacant", "undeveloped", "paved access"

Table 2: The parcels that make up the Lower Scioto Greenway and Environs. The land *use* codes 610 and 615 refer to “exempt property owned by state of Ohio” and “other exempt” property, respectively. Source: Franklin County Auditor (2011).

Now, it may seem to the reader that I am splitting hairs so to speak in pointing out small inconsistencies within the official record. But any sort of compilation of this data would give the false impression that unofficial parcels are well accounted for, accessible, and developable. The auditor’s database has many holes which I wish to point out in order to show that even the official method for recording parcels in the county does not and indeed cannot (partly because of limited definitions) fully account for all the particulars of unofficial space. The auditor’s parcel map and database materialize the property layer introduced in Chapter 1. Incomplete or misleading information contained therein both contributes to and reflects a parcel’s status as unofficial.

There are two important points to take away from a first person observational investigation of unofficial greenspace in this area. First, the city has neglected to post many signs that purport to regulate space and people. Those that do exist are generally not intimidating and

lack threats of legal action. This, I would argue, can be attributed to its isolation and relative distance from pedestrian corridors, notwithstanding the trail itself. In short, regulation is light, population is sparse, and economic opportunities are few (for all, including the homeless). As we will see, this is not the case in better-traveled and more visible spaces closer to downtown and along the Olentangy River. Revealing examples of signs that do exist appear in Figure 4, below. The regulation (or attempted regulation) does not appear to be as strong in this area. Note the “Private Property” sign in Figure 4 that is actually on city property (the 9.15-acre parcel listed in Table 2). This indicates that there is a subtle struggle over the rights to these kinds of spaces. Any potential explanation for the presence of this particular sign is intriguing. If a homeless person posted it, it is kind of heretofore unexamined kind of “privatization of public space” normally practiced by the politically powerful in high profile commercial spaces (for examples see Staeheli and Mitchell, 2008). In fact, the homeless of Columbus often post “private property” signs in an attempt to claim their own space, a point I return to. If a government official is responsible, it would be an unwarranted, arbitrary and insidious exercise of power, the likes of which could only erode the public’s freedom. Or it may have been a home-owning citizen of Columbus who found a prime fishing spot or a pleasant view that he wishes to claim for himself. In any case, it is a contradiction between property and what can be found on the ground and serves as evidence of the inherent ambiguities of unofficial spaces. The claims to this particular parcel and unofficial spaces more generally are unsettled and unclear. Through actual use more so than the posting of signs do these claims and the nature of public spaces come into sharper focus.

The second point to take away from this area is that greenspaces may lie somewhere between an actual designation and an unofficial state and that this may change through time and



Figure 4: On the left, a sign proclaiming that its reader is on private property and that any incidents of hunting or trespassing will be prosecuted. The catch: it's actually city property—the peninsula visible in the upper right of Figure 3. On the right, a sign that reads “No Dumping Allowed.” This is likely not a “No Trespassing” sign because this is the access point to a state insane asylum cemetery. But it also provides seamless access to a 41.33-acre unofficial state-owned parcel.

space. For example, it may seem to the reader that referring to the margins of a named bike path and even to the path itself as “unofficial” runs contrary to our definition of unofficial greenspace. In response, I would note two things. First, the bike path is essentially unused because it is difficult to get to, does not connect to any neighborhoods and has been “closed” due to construction for fifteen months as I write. It runs from Grandview Ave at I-670, where there are no sidewalks, to the parking lot of a suite of offices on Dublin Rd. where there are again no sidewalks (Here a sign advertises that they offer “scenic views” of unofficial greenspace—an example of a commercial interests in these spaces.) Second, the parcels along the path and that the path lies upon are undesignated whereas the margins of the Olentangy bike path, conversely, are almost always highway right-of-way, riverbank, or parcels that make up designated parks.

The construction noted above is a pedestrian/bicycle bridge over the river which will connect the path to a 12.08-acre unofficial state parcel (seen in Table 2), thus officially connecting two unofficial parcels. This will mark the first clearly authorized access point to the

state parcel. It remains to be seen how this will affect the nature of the path and the parcels.

Although this would appear to detract from their status as unofficial, the mere installation of a bridge that connects an unused path to an intersection with no sidewalks (Harper Rd and McKinley Ave), close to a junkyard and other businesses where pleasing aesthetics are unnecessary or impossible—as opposed to a neighborhood—does not mean that the parcels will suddenly become used and claimed by the wider public. This intersection simply does not draw pedestrian traffic. It is *use*, after all, that really dictates the essence of a public space. The bridge is apparently intended to increase traffic in the area which would counteract forces that are rendering it unofficial—homeless encampments, fire pits, drinking, fishing, and general abandonment. The bridge itself will not suffice in this regard. It will take an appropriation by the public at large for this to happen, and for the geographic reasons noted above, this is unlikely. The mainstream public tends to respect the unofficial spaces carved out by the marginalized as well.

Whereas the bridge is a potential *temporal* example of how the nature of public space can change, this area also provides an example of how the nature of public (and even private) space can transition *spatially* between well-defined and undefined. Note Figure 5, below. Moving south through the northern portion of the wooded unofficial parcel (shaded), one passes unknowingly through an east-west strip of private property, then back into the unofficial parcel, across railroad tracks and then into an open, unmarked field. Part of this field is city property on which a new police heliport was recently built; part of it is state land associated with a number of offices. It is wholly unclear to anyone traversing this area exactly what rules govern the open areas—is this a park, private property or something else? Continuing south over a stream and turning west one sees the lone, sad sign pictured in Figure 6, below. Ok, so this is state land. The

fence would appear to make the sign irrelevant. To complicate this, just yards away is a paved (read sanctioned) path that passes directly through the fence into the open area beyond and finally ends at an actual park. The sign warns not to trespass. But then, assuming “trespass” in the small area of grass between the street and fence is not the issue, the path invites it. There is enough space between the sign and the path to create confusion, but they both appear to apply to the same space, ultimately.

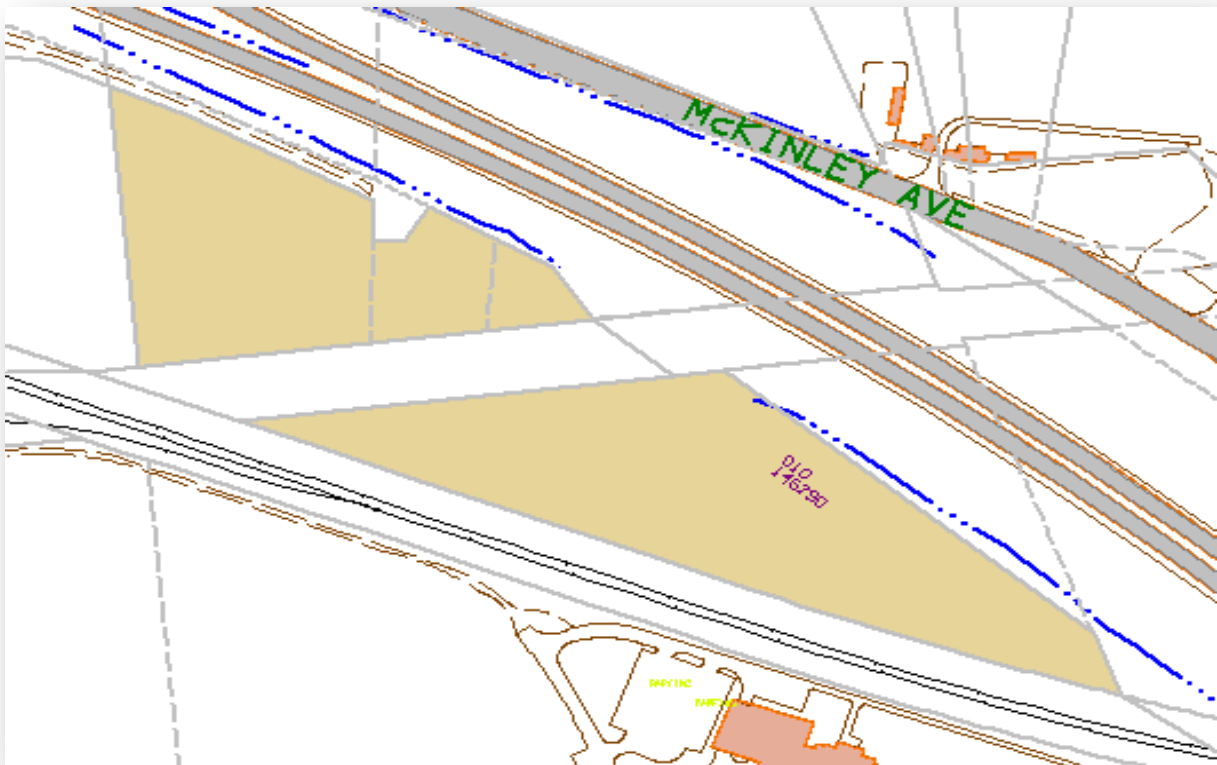


Figure 5: Parcel 010-146290, a bifurcated 41.33-acre state-owned parcel just south of the I-70 right-of-way and east of its merger with I-670. The southern portion is inaccessible via other public property except for the I-70 right-of-way—It is landlocked and would be unused were it not for a handful of homeless people that have infiltrated via the railroad tracks. Image source: Franklin County Auditor (2011).





Figure 6: A lone sign in the middle of a large parcel of state land. The parcel is not listed on the table of unofficial parcels in this section because a number of large state offices are also situated on this property. The sign and its surroundings, though, are fascinating (see main text).



Figure 7: Clinton-Como Park in Clintonville, a community north of Ohio State's campus. This sign shows how a neighborhood can claim public space. The park is not only public and official because it appears on maps and in the county auditor's records but because the public claims it and uses it as such.

It is worth digressing somewhat at this point, to compare the ambiguous environs of the Lower Scioto with another, well defined space along a different, unconnected bike path. This should prove enlightening because it can reveal, perhaps, how space becomes unofficial, how and why certain segments of society lay claim to certain public spaces, and how the homeless are able to effectively ‘fit into’ only certain types of public space. Note Figure 7, above. The woods shown in the picture is park space located along the heavily used Olentangy bike path and it is adjacent to a middle class neighborhood. Generally, the farther north from downtown one travels along the trail, the less ambiguous the spaces it passes through. *“No Trespassing” signs do not appear in parks.* This would be anathema to the very core ideas regarding the public’s right to freely use parks. The harshest sign one will encounter might read “conservation area, please stay on trail.” The sign pictured shows that the public can adopt public space thereby making it “safe” for “appropriate” uses like dog walking, as these woods are commonly used for. The marginalized of society generally do not attempt to camp in or use these woods not only because it is officially a park but because the residents of the surrounding neighborhood have effectively claimed it.

Blomley (2004) has recognized the phenomenon which is so clearly captured in Figure 7: “Public spaces, such as streets and parks, are more or less successful and safe to the extent that private residents imagine and act upon a property claim to that space” (17). Now, the “success” of a public space is subjective. We can reasonably assume that, to a homeless person, a successful public space is where he or she is free to eat, sleep and defecate in peace, while a home-owning user of that same space may consider the space’s success contingent on the absence of that homeless person. Given our context, another relevant question that follows readily from Blomley’s insightful statement is: are the homeless “private residents?” If so, and if

we consider his comment on a space's "success", then his statement stands because the homeless, no less than anyone else, shape public space based on a claim. If not, his statement only applies to a subset of public spaces excluding the unofficial. This question, of course, is intimately related to how we conceptualize "the public" as per Don Mitchell (1995). Different public spaces are claimed and shaped by different segments of society and this is clear when comparing the unused portion of the Lower Scioto Greenway to the Olentangy Trail. This action, moreover, perpetuates and deepens the status of the space.

The contrast between the Lower Scioto Greenway and the Olentangy Trail is striking. The former provides efficient transportation to Ohio State University, is heavily used, official, and claimed by the neighborhoods it passes. The latter does not provide practical transportation, is frequented by society's outcasts and is nowhere near a residential area. By recognizing these differences, it isn't hard to see why these two bike trails are so completely different. The spatial qualities of the Lower Scioto helped to create and now perpetuate its condition. It also is not hard to see why the homeless tend to gravitate here and in doing so render themselves and the area somewhat immune to takeover by regulation or the middle class.

### **The Ohio Department of Transportation (ODOT) Wetland Mitigation Area**

My words and the accompanying photographs will never do justice to this expansive, wild and nearly inaccessible unofficial greenspace hemmed in by the Scioto River, I-670 and then by Dublin Rd (see Figure 8, below). There are three distinct sections: the open field to the west, the open area designed as a flood catchment just south of I-670, and the woods north of the river to the east. This area is ecologically active and healthy after having been constructed as a wetland to mitigate the damage done by the construction of I-670 (ODOT, 2006; Mike Pettigrew,



personal communication). Only three actual parcels make up this area (see Table 3, below). The large field is the 40.82-acre city parcel which is bounded to the south by the dirt access road visible by satellite and to the north by the river. This is not technically part of ODOT’s mitigation project.



Figure 8: ODOT’s Wetland Mitigation site—unofficial greenspace at its finest. Note the difficult access to the field. To gain entry, one must walk along a set of railroad tracks for quite some distance, then pass under I-670 via a drainage outlet, or jump a fence next to the Central Ohio Transit Authority bus terminal in the lower left of the image, or walk along the narrow embankment between the Scioto River and I-670. Image source: Google Earth (2011).

Mike Pettigrew, an ODOT ecologist, is “pretty sure” that the state owns the remaining areas including the wetland and the woods. Pettigrew attempted to verify this on the auditor’s website, “but it was down” (personal communication). Had it been running, Pettigrew would have been unable to find any information from the auditor because it simply isn’t there. The area

south of the highway, the wetland, and most of the woods is unaccounted for on the parcel map—one cannot “click” on the areas. “[M]aps are a way of conceiving, articulating, and structuring the human world which is biased towards, promoted by, and exerts influence upon particular sets of social relations” (Harley, 2009). The auditor’s parcel map is biased towards social relations that revolve around land ownership and beget property taxes while at the same time relegating other land to an indefinite status. Harley (2009) goes on to note that maps are revealing in their omissions and throughout history omissions have erased people but in the case at hand, the erasure is of land. “The map not only records. It arbitrates. The arbitration of what is property is not an objective categorization, but an active form of boundary making and purification” (Blomley, 2004). In order to apply these observations, we might reasonably add that while the auditor’s map sanitizes the parcels that it captures, at least to an extent, the map makes no direct judgment on what it doesn’t capture. It doesn’t purify what it doesn’t record which leaves a void to be filled by some other means.

There is a homeless encampment presently in the woods off of Dublin Rd which is fairly accessible. While there is evidence of human use in the large open areas (a fire pit, for instance), the difficult access seems to preclude it as a viable subsistence site. (I, for one, was only able to find seamless access along the narrow strip between the river and I-670 after viewing a satellite image.) The area is almost completely empty of signs. Pettigrew noted that the lone sign restricting access to the wetland is “misleading” because it implies that there is access available by permit, but in reality, there is none. He did, however, give me informal permission: “You can go back there. Nobody will ever know.” This kind of permission can be a defense to a charge of trespassing (see Chapter 3). When I inquired about the “bum camp” that Pettigrew mentioned, he noted that he couldn’t confirm that it was on ODOT property and that, at any rate, “the City has

Parcel ID	Owner	Acreage	Land Use Code	Transfer Date	Notes
570-126644	City	40.82	640	1965	"vacant", "paved access", prev. owner: Marble Cliff Quarries Co
140-002658	State of Ohio	8.739	610	1998	"undeveloped", no street access, once owned by Marble Cliff Quarries
010-129638	City	13.388	640	2007	split between "developed" and "undeveloped"

Table 3: The parcels that constitute the ODOT wetland mitigation site along Interstate 670. The third parcel is developed in the sense that there is a fenced-in building relating to the nearby dam, but it is mostly undeveloped. Source: Franklin County Auditor (2011).

been making an effort to get them out of these areas [along the Scioto River].”

It seemed clear from our discussions that ODOT (or at least its Office of Environmental Services) was not concerned with issues of trespassing unless such transgressions compromised the ecological integrity of their sites—as problems with hunting and all-terrain vehicle use have in some rural areas. In fact, ODOT has not posted a single “No Trespassing” sign here. ODOT also seems content to wipe its hands of any issues with the homeless by merely deferring to the city. Now, contrary to the strict definition of unofficial greenspace given in Chapter 1, the ODOT lands here are not parcels of land on record with the county auditor. This, however, makes them even more ambiguous. Highway rights-of-way are owned by ODOT and are in a sense, official. But when a significant tract of land is clearly not right-of-way and not a parcel on which information can be found, what exactly is it? One potential, somewhat simplistic answer lies in the fact that our cataloguing, mapping and planning methods are not perfect. Land, particularly in urban areas around (and under in the case of overpasses) major transportation corridors can be lost and unaccounted for. Pettigrew mentioned ODOT’s intention to transfer ownership of the mitigation site to the City to manage. The City will be required to keep the site in substantially the same condition it is in now and to maintain it as mitigation site in perpetuity to comply with

the federal Clean Water Act. It will be difficult to officially transfer ownership since the site is not an actual parcel of land and may not even have a deed.

This messy little fact, this hole in our system, can open up many interesting social and legal possibilities that revolve around spatial anomalies. Since ODOT has little interest in regulating this land, does responsibility pass to the city? A case from Michigan suggests not. A group of homeless persons set up camp on Michigan Department of Transportation land at a freeway entrance ramp and city police deferred to the state police because they lacked jurisdiction (Askins, 2009). Pettigrew makes the assumption that the city is taking action, almost by default. As people inhabit and cross blurry borders or layered jurisdictions—literally and figuratively—they challenge the status quo. At the ODOT mitigation site the status quo might simply be that no one cares or that no one enters. Guidelines are well established on residential property, commercial property and in parks, but here they are not so clear. Property structures our relationships with land and often to each other, so when the property model is vague, those relationships can be recast.



Figure 9: The ODOT wetland mitigation site. It is close to downtown yet isolated and, amazingly, relatively untrammelled by people.

## The Confluence

The area around the confluence of the Olentangy and Scioto Rivers is a great example of ad hoc regulation of unofficial spaces and of the homeless. This is an important area because it is a transition zone between the rational, secured, downtown core and the more wild spaces to the west that we have already encountered, and also because the City's actions (or lack thereof, in some instances) reveal much about the socio-legal parameters that prevail over the unofficial spaces here. Reality on the ground is quite revealing, as we will see. In many ways, the Confluence is an interface. It is an area where middle-class society contacts the destitute, where redevelopment interacts with the stubborn remnants of the past, and where law and policy take material form. This is where the police—themselves at the interface of society's failure to the homeless—are expected to mediate the relationships between those people and the rest of society (Kleinig, 1993). The Confluence is close enough to downtown to garner the City's attention, but wild enough to be a viable space for the destitute. Social worker Ken Andrews notes that this is presently a "hot spot" being targeted by the City for the removal of the homeless (personal interview). This is not surprising given the area's proximity to downtown and the Arena District.

In 1998, when *The Riverfront Vision*, a long term plan to reclaim and redevelop areas along the two rivers from the OSU campus all the way south of downtown, was prepared, the current condition of the Confluence was not envisioned. "The riverfront corridor improvements for the Confluence Park must be designed to...create a unique destination along the riverfront with...family-oriented park uses...[and] [e]nhance the Confluence site for public park use" (Riverfront Commons Corporation, 1998: 40). Other visions presented in this document include the river as "a cultural spine for the city" (6), there being a "continuous corridor of public open space along the river" (6), and "[i]nterpretive trails that begin where the rivers meet and meander



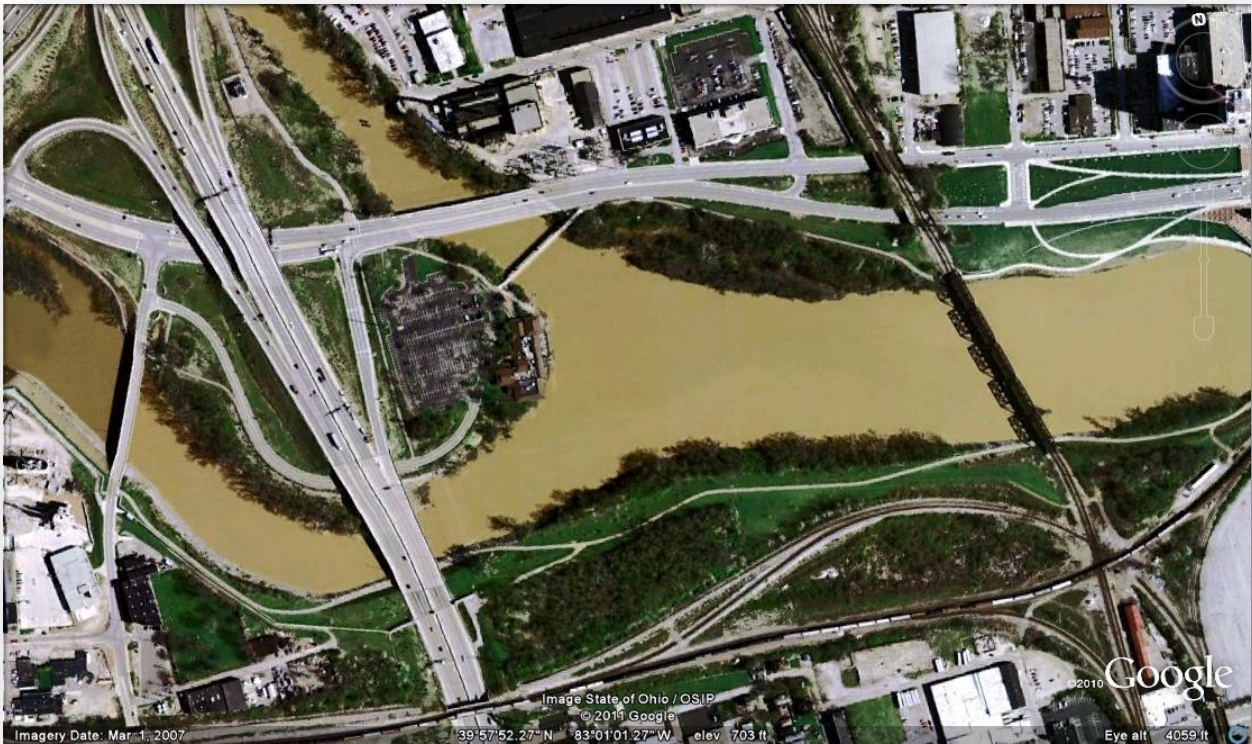


Figure 10: The Confluence. Note the woods in the bottom center of the image bounded by State Route 315, railroad tracks and a paved path. This, along with the smaller triangle of woods to the east is home to a significant number of people. Image source: Google Earth (2011).

downtown” (40). The only actual park in the vicinity—North Bank Park—is visible in Figure 10 in the upper right where the spaces are better delineated and the grass has been recently planted. There are no interpretive trails, no family-oriented activities besides the park, and, according to the thirty or so big, intimidating, bilingual (English/Spanish) “No Trespassing” signs that threaten prosecution, no continuous public access (see Figure 11, below).

The signs appear along both sides of the Scioto, particularly on the south side between route 315 and the railroad trestle. They are also on all four sides of the woods visible in the bottom center of Figure 10. Something is unsettling in the sheer number and size of the signs. They scream collectively: “Danger! Don’t stray from the safety of the path!” Upon closer



Figure 11: Two of the many “No Trespassing” signs around the Confluence. The one on the left begs the question: trespass where, exactly? On the riverbank that is held in trust for the public? The green writing on the sign on the right reads “campout.” Indeed. There are around a dozen people living in the woods.

inspection, the only anomalous quality of the space is that...people live here, minus an address. The aforementioned woods are of particular interest. They are a county-owned, city-regulated, homeless-appropriated, ambiguous space rife with irony.

The fundamental, incontrovertible, spatial reality of this area is extremely important and revealing. The City couldn’t possibly be focused primarily on protecting the public because the railroad tracks (which lack “No Trespassing” signs) are clearly more dangerous than the woods. The City couldn’t possibly be reluctant to regulate another’s property (i.e. the railroad’s) because here it attempts to regulate county property. The City couldn’t possibly be interested in preventing trespass per se, because one *must trespass* on railroad property to even *see* the “No Trespassing” signs on the south side of the woods. The City (or the railroad for that matter) couldn’t possibly be striving to protect the sanctity of private property because the official path crosses railroad property. The City couldn’t possibly be concerned with the homeless detracting from the aesthetics of the landscape because the signs themselves are ostentatious, intimidating and degrading. The City couldn’t possibly be serious about enforcing the decree the signs convey

Parcel ID	Owner	Acreage	Land Use Code	Transfer Date	Notes
010-066460	County Commissioners	0.181	620	1980	"vacant", "paved access", "landlocked"
010-066337	Pennsylvania Lines	39.9452	0	2002	"future parcel", no taxes, no value
010-053989	State of Ohio	3.94	670	1935	"naval reserve armory", "undeveloped", mailing address: OSU
010-053600	County Commissioners	1.673	620	1946	"undeveloped", "paved access", "landlocked"
010-046437	City	5.8	640	1938	"undeveloped", easement granted
010-010961	County Commissioners	0.317	620	1980	"landlocked", "vacant", "paved access", "undeveloped"
010-010960	County Commissioners	0.211	620	1980	"undeveloped", "paved access", "landlocked"
010-241817	City	2.031	620	1980	"public landing place", "developed"
010-238620	City	0.525	640	2007	"developed", "paved access"
010-238619	City	7.673	640	"null"	"developed", "paved access"
010-033124	New York Central Lines	15.8	0	2002	"future parcel", no taxes, no value
010-066177	CSX Transportation	1.1	0	1930	"future parcel", no taxes, no value

Table 4: The parcels around the confluence of the Scioto and Olentangy rivers. Land *use* code 620 stands for “exempt property owned by county, COTA, port authority.” Land *use* code 670 stands for “exempt property owned by colleges academies (private).” Three railroad parcels are included to show that they are generally not valued, pay no taxes and are marked as “future parcels.” Note the contradiction between a parcel being “landlocked” and having “paved access.” The county parcels are all in the woods in the bottom center of Figure 8 and clearly have no “paved access.” Source: Franklin County Auditor (2011).

because there is a well-established homeless encampment in the woods—it persists, quite simply.

So what is the City interested in, exactly? Having exhausted all potential explanations, one must conclude that the City is interested in *ostensibly* regulating the homeless. The City is content just appearing to address the issue of homelessness. The City has put up a fight to control its property and the county’s but lapsed into a state of aggravated acquiescence. The City, apparently, is willing to discard *The Riverfront Vision* entirely in this area and elsewhere because it can’t

effectively deal with the issue of homelessness. Ironically, redevelopment both causes and is hindered by homelessness (Staeheli and Mitchell, 2008; Mair, 1986). The homeless that subsist here and daily defy the signs have so much clout and agency as to thwart a project, a “vision,” funded jointly by the City, Ohio State, and the Greater Columbus Arts Council—incredible. This is an interesting case where the dominant vision of a landscape (dominant because it was proffered by powerful interests and institutions) has been subverted by realities on the ground. Mair is likely correct in claiming that “the very nature of the post-industrial city *demands* the removal of the homeless” (1986: 352), but a tension has developed because in many places the homeless don’t seem to be leaving.

Social worker Ken Andrews has a pertinent theory paraphrased thus: city officials are concerned that the homeless presence makes them look bad in the eyes of constituents, a thought that leads them to adopt a short-sighted “they-can’t-be-*there*” policy revealing that, indeed, the emperor has no clothes. This is an impasse formed at the junction of biology, geography, physics and policy. I argue that policy is the most malleable of these and will eventually bend to accommodate reality. “Police officers... are often themselves struck by the inhumanity of enforcing regulations against a population whose evident needs make some other form of social response much more appropriate...[so they may] choose to ignore breaches, thus negating the policy” (Kleinig, 1993). The longer the homeless subsist in this space, in open defiance of the City, the more salient the contradictions become and the more the City appears resigned to accept the fundamental axiom, in the words of one county official, that “[the homeless] have to go somewhere” (personal interview). The homeless in this case are weighing in. They are asserting their right to exist and have chosen to do so in an unofficial space. In the process, they are shaping the politics and regulatory regime of this property, and in effect are making it public.

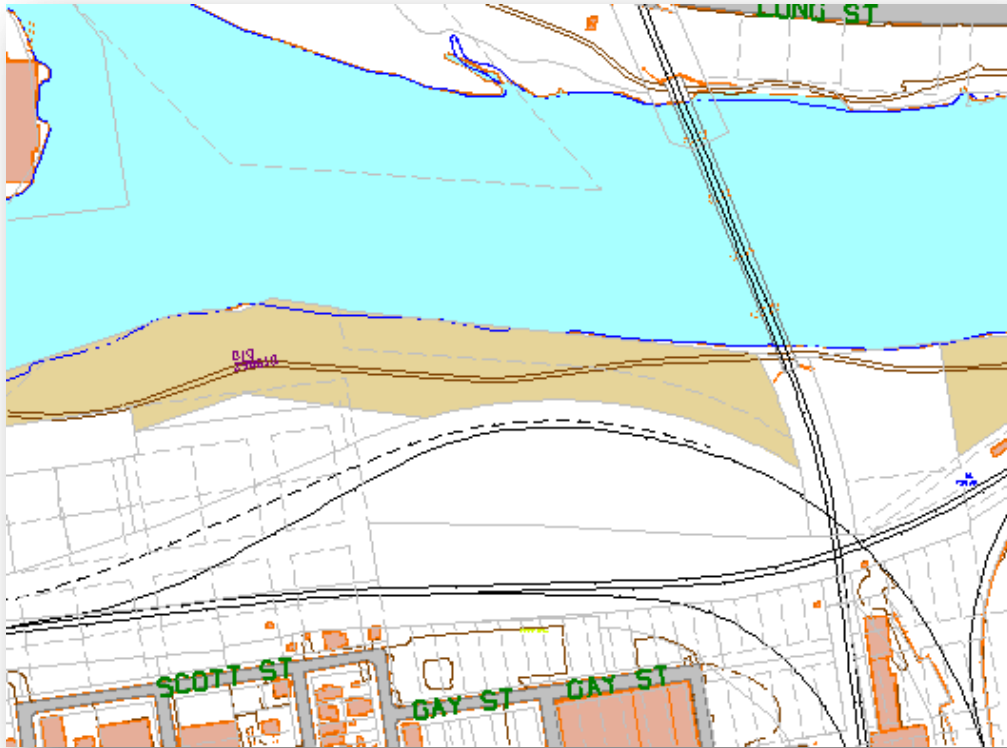


Figure 12: Parcel 010-238619, listed in Table 4, is shaded. This is a city parcel which “No Trespassing” signs have divided into areas open to the public and areas not open to the public, although it is a single parcel with a single use code and function. The two parcels that lie between the shaded areas are both owned by railroad companies—one is a bridge. The path goes under the bridge but then crosses the next railroad parcel. Notice how the area in the bottom left of the image is platted as a subdivision with parcels and roads. There are a number of county-owned parcels here. The railroad tracks prevent vehicular access to this land. Image source: Franklin County Auditor (2011).

### **The Margins of Scioto-Audubon Metro Park**

Scioto-Audubon is the newest and most urban metro park in Franklin County. The park and its margins provide another example of how the nature of public space can change over time. Here, transformations are still underway. In fact, the ownership, jurisdiction, usage, development, and future of this area are very much “unsettled,” to borrow Blomley’s (2004) term for describing certain property relations. The park and the lands that circumscribe it are a messy



conglomeration of city-, state-, park-, and railroad-owned parcels, as well as vacated streets (see Figure 13, below). There are no lines or signs on the ground that clarify any of this. Indeed this space, which the reader should note as being shaped like a half circle bounded more or less by the Scioto River and railroad tracks (see Figures 13 and 14, below), is imbued with qualities that make it simultaneously official and unofficial. These qualities don't just alternate at property lines or at landmarks; they actually overlap to various degrees. This is a blending of a park, unofficial space and railroad property. The character of unofficial space is one of degrees and

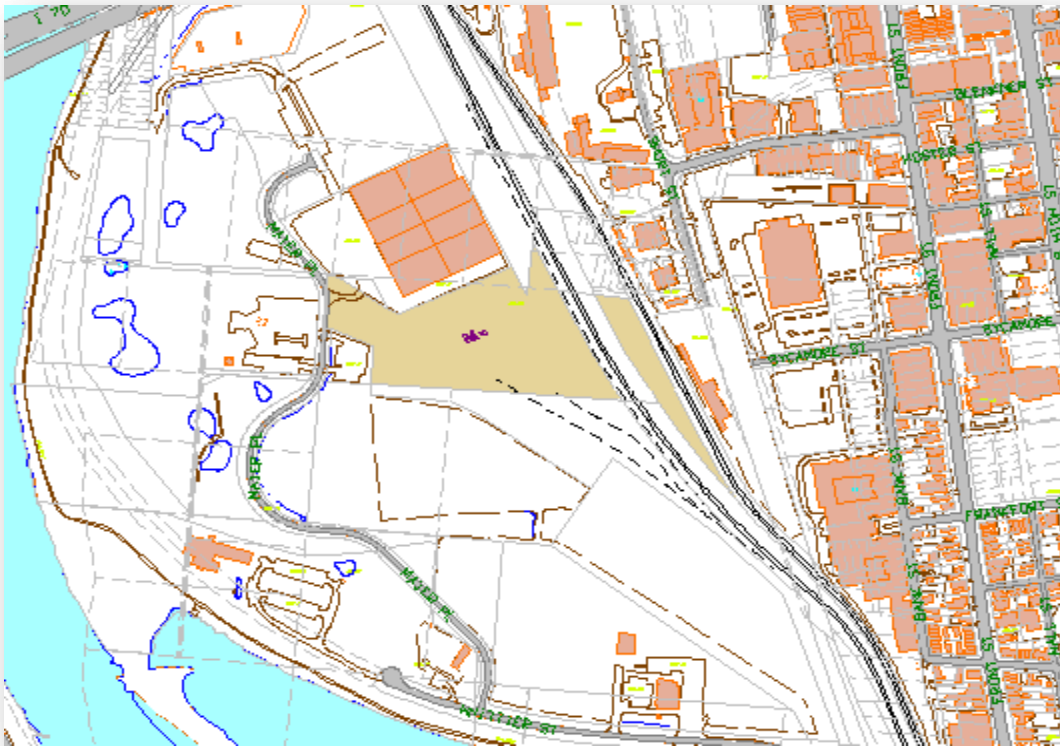


Figure 13: A map showing the parcels that make up the vicinity of Scioto-Audubon Metro Park. It isn't difficult to see that this layer of parcels is quite spatially complex. The shaded parcel is owned by CSX Transportation and is "used in operation" according to auditor. But one can clearly see that there are no tracks passing through the parcel. One can pass seamlessly through this parcel and another owned by CSX into park property. Image source: Franklin County Auditor (2011).

this character varies through time and across space while mixing with qualities of adjacent space that is better defined.

Let me offer some examples of the blending of unofficial and official characteristics here. The parcel of railroad property shaded in Figure 13 is official in the sense that it is a discrete, documented, privately owned piece of land. On the ground, however, it is undeveloped, not demarcated and blends seamlessly with park property. In fact, Google Maps labels it as park property. Note the 2011 deed transfer dates of three parcels in Table 5, below. Parcel number 010-249657 essentially consists of the woods behind the (now removed) police impound lot visible in Figure 14. Prior to March of 2011, this parcel would have been categorized as

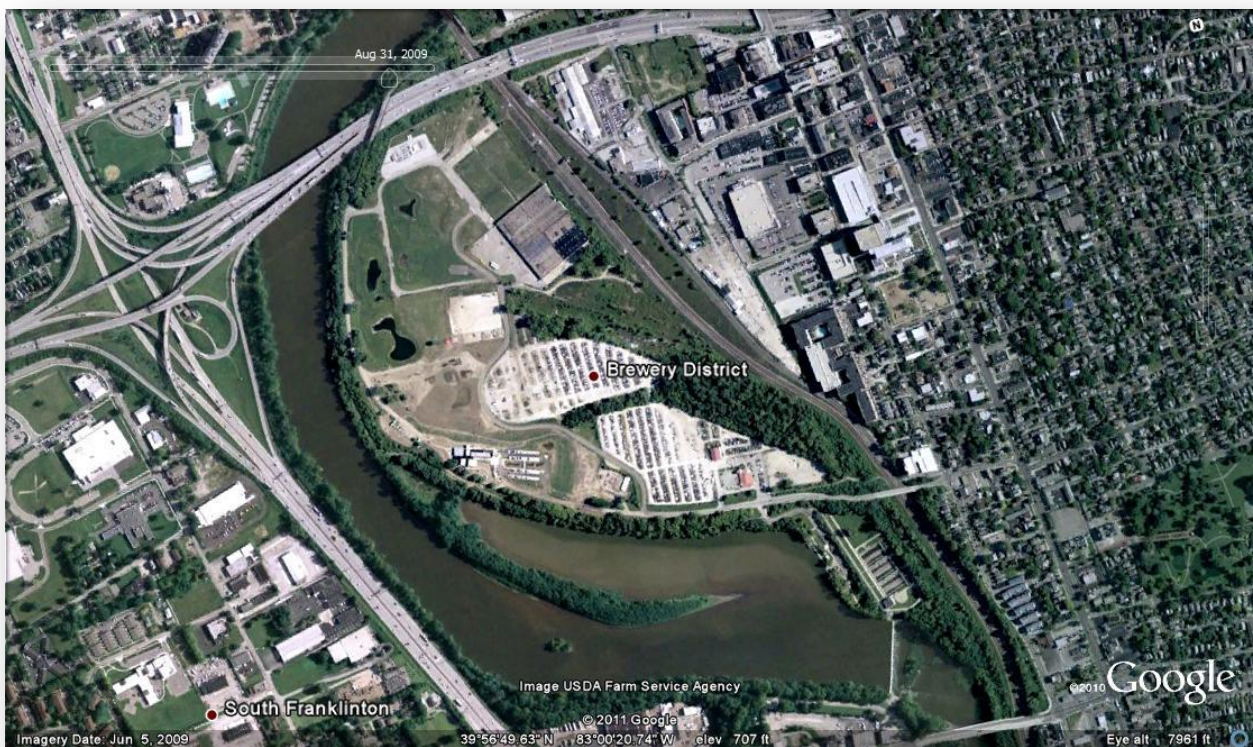


Figure 14: Satellite image of Scioto-Audubon Metro Park and vicinity. This has been a site of rapid change over the past few years. The park overtook some unofficial lands and new relations are still being ironed out. The police impound lot visible in the image has been moved. Image source: Google Earth (2011).

unofficial, based on the definition in Chapter 1—it was undeveloped city property. Now it belongs to the Columbus Board of Park Commissioners and the Franklin County Metro Park District, although, as noted in the text accompanying Table 5, below, the land use code still indicates it is city-owned. The material nature of the parcel is unchanged. There are still piles of beer bottles, remnants of tents, fire pits and an old sign (in the middle of the parcel) that reads: “City of Columbus No Trespassing.” The change is subtle—only a change in the owner listed in the county auditor’s database—but reality on the ground makes it more unofficial than not. So how should we regard this parcel? Are park rangers even aware of the deed transfer? The mere recording of a parcel by the auditor is not sufficient to render a space claimed, used and clearly defined. The core of the park is contrived and groomed. But as it pushes outward, toward the railroad tracks and more ambiguous areas, rationality gives way to a more chaotic space.

Parcel ID	Owner	Acreage	Land Use Code	Transfer Date	Notes
010-067084	Metro Parks/Park Commissioners	10	640	2011	owner/use code contradiction
010-057543	State of Ohio	7.22	610	1957	"vacant"
010-023620	City	18.783	0	2011	"future parcel", no value
010-010234	City	1.96	660	2000	owner/use code contradiction, "vacant"
010-249657	Metro Parks/Park Commissioners	8.671	640	2011	owner/use code contradiction, "vacant"
010-066830	City	13.46	640	1920	bifurcated between official and unofficial, vacated street

Table 5: A sample of interesting parcels in and around Scioto-Audubon Metro Park. Not all are strictly unofficial, but all have something to tell us. Land *use* code 660 means “exempt property owned by park districts.” Besides conflating *use* with *ownership*, the auditor’s database shows contradictions in owner and use code here. For example, parcel 010-010234 is owned by the city but the use code is 660. Source: Franklin County Auditor (2011).



With the creation of the park, the area's homeless population has fewer options as to where to *be*. And, at least in some places, they seem to have a more tenuous hold on the land that they do claim. The vacated street (Whittier) shown in Figures 15 and 16, below, is a fascinating



Figure 15: Two ends of the same (vacated) street. The sign on the left faces Scioto-Audubon Metropark and noticeably lacks (at least when one is looking for one) a “No Trespassing” sign. The extant sign apparently applies to vehicles. The recently installed sign on the right applies to people—specifically the homeless people living just behind it.

place and can be seen crossing over I-71 in the upper portion of Figure 14, just under the printed date of the image. It is wedged between official park space and unofficial greenspace and leads straight (albeit over railroad tracks) to the Miranova condominium development, one of the most recognizable signs of private wealth in Columbus yet it is home to the lowest reaches of urban poverty. Having been removed to make room for the metro park, and having no chance or desire to claim space anywhere else, this is the last frontier for the homeless, the last available space they have to perform the most basic acts necessary to life. Even after being relegated to this condition, society-at-large insists on imposing a baseless need for the homeless to “move”, effected when residents of Miranova call the police to report that some of their less fortunate



Figure 16: In the background is Miranova, a luxurious high rise condominium development. In the foreground are shacks.

human beings are (somehow) surviving on public property so close by as to make them uncomfortable (Ken Andrews, personal interview). Then there are the signs. The one pictured on the right in Figure 15—hastily nailed to a tree—was found to be needed only *after* some people erected shelters on the old road beyond and not earlier to protect the public from any hypothetical danger. And a “No Trespassing” sign is needed only at the end of the street that the homeless use, not at the end facing the park (the left side image of Figure 15). One is trespassing to enter as the homeless do, but not to enter as the park-goers do. Thus are the contradictions of inequality, ambiguous public space and heterogeneous regulation. This street, while closed to vehicles, is still a street, not a parcel, and should be open to the public and not susceptible to arbitrary regulation by the City. Here and elsewhere, throwing up a sign or two seems to be a

quick and easy way for the City to deal with perceived problems—a way to save time, money and effort and perhaps shield itself from liability—that precludes thinking of innovative solutions to problems and creative ways to use and represent public property. Posting signs, in other words, is a form of laziness.

Amazingly, this isn't the only vacated street in the vicinity claimed by the homeless. Hugging the other side of the river, off of Greenlawn Ave, is Scioto Blvd. This is home to the most well-developed homeless encampment I have ever encountered. There are insulated, multi-room shacks, one with a chimney built from scratch, a garden, and even a “mayor” according to Ken Andrews. It's so utterly free for the homeless that it verges on private. One man has indeed posted a “Private Property” sign and displayed an address: “814 Scioto Blvd.” Incredibly, this state of affairs takes place on a city parcel (number 010-066830 in Table 5) that is essentially bifurcated between an unofficial portion and a lot where police cars are stored and fire battalions practice battling blazes in a tower. People come and go in this little community, but a core group has remained for years (Ken Andrews, personal interview).

Andrews recounted an incident where a shotgun was stolen from a police cruiser in nearby Berliner Park. The homeless encampment was immediately targeted and ransacked by the police under the (ultimately false) assumption that a homeless person was responsible. In another incident, the police had apparently attempted to remove a person's shelter only to find out that it was on the property of a neighboring business whose owner had no issues with the person's presence. Otherwise, my conversations with some residents indicate that they are left alone for the most part. An unspoken, unwritten rule seems to pervade the space: stay invisible, don't “cause problems” and the city will acquiesce to the land's use by the homeless. I was informed by one resident that the plot of land he has been able to stake out and fence in (it is more like a

homestead than a makeshift shelter) is more of a curiosity than a point of contention with the police. Officers have taken rookies back to his plot to show them the lay of the land.

### **Along the Olentangy**

The parcels listed in Table 6, below, lie roughly along the Olentangy River between the Confluence and Clintonville, to the north. The parcels are disparate and widely spaced but their proximity to the river and its tributaries—whether natural or artificial—make this a somewhat coherent area. A satellite image of the entire area has been omitted. As depicted on the auditor’s parcel map, a number of the parcels include parts of the river and even span the river when in theory the river is not owned as a parcel of land but held in trust for public benefit (Staeheli and Mitchell, 2008). Many of the green spaces along the river, along with the bike path, are in the right-of-way of Route 315 or are unplatted riparian areas. The 40.447-acre city parcel listed in Table 6 is quite complex, spanning a distance of over five blocks and covering land on both sides of the river. An image of the parcel like those of Figures 5, 12, and 13 (along with many other parcels of interest, unfortunately) is unavailable from the county auditor’s website because of an “error in parcel data.”

There are a number of homeless encampments along the river between the Confluence and Fifth Avenue. One is located on a ridge between the path and the river, south of Third Avenue. One is located on property owned by New York Central Lines (the parcels are listed in Table 6) but well out of the way of the actual tracks. In fact, no tracks run through parcel number 010-066303. And their other parcel that is listed, for which acreage is unavailable, is mostly free of tracks. These parcels were previously the site of a 26-person camp that, in 2006, was broken

Parcel ID	Owner	Acreage	Land Use Code	Transfer Date	Notes
010-067298	City	6.06	640	1950	"developed", bike path, mostly river
010-238618	City	2.3	640	"null"	"developed", "undeveloped"
010-067230	City	40.447	640	2009	1st Ave to King Ave both sides of river, "developed"
010-204010	State of Ohio	11.326	670	1931	"developed", "undeveloped", OSU mailing address
010-008842	City	1.507	640	1945	"undeveloped", no street access, landlocked
010-129644	County Commissioners	5.96	620	1980	"undeveloped", "paved access", mostly river
010-180602	New York Central Lines	?	0	2002	"future parcel", no taxes, no value
010-066303	New York Central Lines	0.945	400	2009	"vacant commercial land", taxed, "developed"
010-241864	City	0.125	640	2008	"vacant", behind Portal Park
010-055145	City	?	640	2008	"vacant", behind Portal Park
010-077378	City	?	640	2008	"vacant", behind Portal Park
010-077379	City	?	640	2008	"vacant", behind Portal Park
010-044986	State of Ohio FBO	6.236	610	2007	Opposite side of river from the OSU wetlands

Table 6: A sample of parcels along the Olentangy River from the Confluence to Clintonville. Land *use* code 400 is “vacant commercial land.” Note the contradiction between “vacant commercial land” and “developed” for the railroad parcel numbered 010-066303. That particular parcel in the table is the only railroad parcel where the owner pays taxes that I have found. Source: Franklin County Auditor (2011).

up (Hagan, 2007). This is the case with many railroad parcels—much of the land that they cover is unused for railroad operations or owned basically by default when the tracks preclude other development.

One lone camper has pitched a tent on the riverbank between Fifth Ave and Third Ave just yards away from a childcare facility owned by the Battelle Memorial Institute but out of view from the path. This is the only location along the entire stretch of the Olentangy Trail from the Confluence to Worthington where, to my knowledge, “No Trespassing” signs have been

posted. They face the path and prevent the public from reaching the river. As usual, the spatiality of parcels is complex here. The path, interestingly, traverses Battelle's (private) property. Sections of the riverbank are owned by Battelle, some is part of the large city parcel noted previously and some is unaccounted for by the auditor. The public trust doctrine is an element of common law that provides for public access to resources of communal value like waterways (Babcock, 2009; Dunning, 2003). The City is precluding this with its signage. The signs homogenize private property, public property, and land held in trust. There is something disturbing and oxymoronic about the concept of trespassing on public property and property held in trust for the public. Preventing access to some types of public property is certainly reasonable—even mandatory; the county jail for example. But this is unwarranted for a river.

In a sense, the City is regulating this area (and many others) as though it were entirely private. The exclusion of the public—specifically of the homeless and other “undesireables” from public property for no reason of safety, and no reason of law is merely an undertaking in aesthetic purification. By “safety” I mean the safety of the public entering the forbidden space. If the space has essentially the same characteristics of a park, the concept of “public safety” is an incoherent rationale. The City, often heeding the cries of business interests (Parks, 2010; Mair, 1986) decides undemocratically what the landscape aesthetic should be—and the homeless aren't a part of it. I credit sociologist Franco Barchiesi with noting that the regulation of public space as private property is often a way to valorize and protect actual private property (i.e., Battelle).

Farther up the river, up the east bank, on the corner of High St and Arcadia is a small piece of public property called Portal Park. I mention this space for a number of reasons despite its clear definition. First, it is very close to four similarly small parcels of unofficial city property that receive no attention. Second, the signs behind it (see Figure 18, below) are illustrative of a

sinister tendency. And thirdly because it has been the focus of a nasty debate regarding our interwoven topic of homelessness. In 2010, Kevin Parks (2010) reported on the proceedings at a Clintonville Area Commission meeting that included the approval of a measure to shorten the park's hours and to remove "deteriorating" tables. This was done in an attempt to curb "non-desireable" activities being engaged in by the homeless at the park. At a previous meeting, while some were concerned with the wellbeing of the area's homeless, Parks notes the fury of others in the community toward the homeless: "we need to take them out" said one in attendance; another suggested the SWAT team be called in; the Portal Park Task Force was created.

If this seems extreme, that's because it is—especially in light of the realization that this is fundamentally about *aesthetics*. Mitchell (1997) has thoroughly documented the often espoused economic-aesthetic argument for removing the homeless through the "annihilation of space by law." Essentially the park's purpose is to hold a "Welcome to Clintonville" sign. All benches and tables were removed and the park now closes at 7 P.M. The Commission is willing to subvert any desires that might otherwise be expressed by the wider public to make a point about the homeless. There is essentially no reason to visit the park and nothing that would tempt anyone to linger. But that is exactly the point.

There are no meetings and no task force for the parcels of city property behind the park. Undoubtedly only a few people even know that they exist. Figure 17 in conjunction with Figure 18, both below, show that "Private Property" signs guard a piece of city property. Only after one trespasses on the faux "Private Property" would one then have the opportunity to breach the "No Trespassing" signs of the City. Other entrances to this wooded ravine farther east are not marked with signs, even though the spaces there are much better defined as private property and school property. The signs are directed toward High St. where it is presumed that those that are



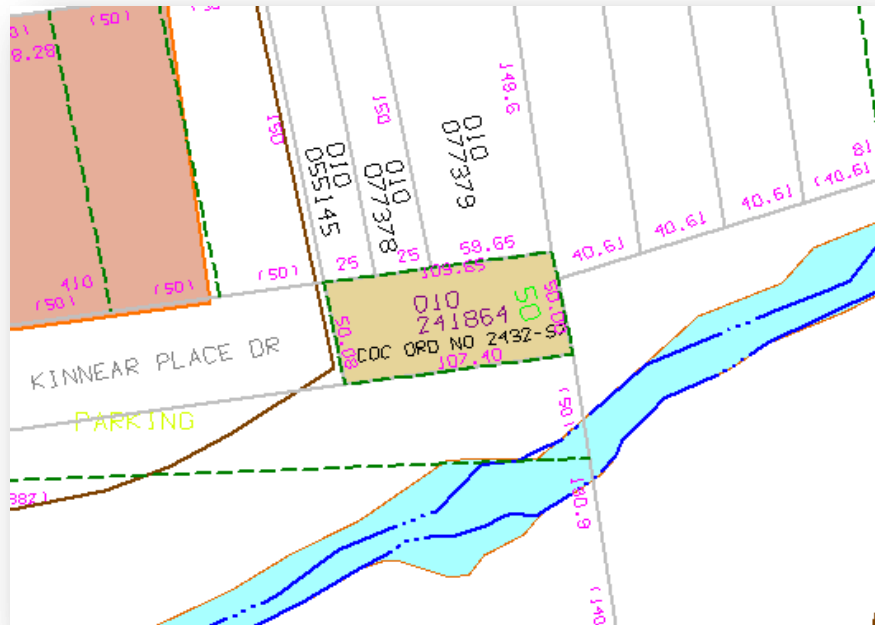


Figure 17: The shaded parcel along with the other three labeled with their identification numbers are empty city-owned plots, but signs exclude the public. Image source: Franklin County Auditor (2011).



Figure 18: Public or private? Note the familiar city sign in the background and the twin “Private Property” signs in the foreground. This is the end of Kinnear Place Dr., depicted in Figure 17. We are looking straight at parcel number 010-241864, owned by the City. The rationale for exclusion need not be coherent, as this realization indicates.



unwanted would enter the space from. The unofficial public spaces just behind Portal Park would be more viable for the homeless because they are relatively secluded, but they have no way of knowing so because of the “Private Property” signs.

## Chapter 3

### Law, Policy and Intervention

Not only is unofficial greenspace contradictory on the ground when it comes to signage, use, and relationships produced through the concept of property and parcels, but it is also not neatly accounted for in the law. In addition, interventions by the City of Columbus into such spaces fail to clarify their meanings, character and place in the law; and such interventions do not take account of their undefined nature in the first place. Chapter 2 has hinted at some ambiguities and anomalies in interventions into unofficial public space and potential grey areas in the law. The current chapter will elaborate while focusing specifically on the relationships between the homeless, the law, and the spaces under consideration. Consider this a critique of spatial and legal coherence when it comes to the homeless on unofficial or nearly unofficial public property.

The type of public property—unofficial greenspace—that this paper primarily focuses on is never specifically referred to by any name in any statute or court case that is readily found. General terms are used like “public lands” or public “yard.” For example, the Columbus Code of Ordinances, section 2317.14, states that:

“No person shall urinate or defecate on any of the following: (1) Any sidewalk, street, park, alley, or yard that is publicly owned or that is open to the public for use; (2) Any...area not specifically designed for use as a toilet facility of any...structure that is publicly owned or that is open to the public for use; (3) Any portion of any privately owned property...not held open to the public for use and is not specifically designed for use as a toilet facility.”

What constitutes a public “yard”? Certainly this is the only category listed into which unofficial greenspace could fit. Notice also that this potentially brings us back to the question of which spaces are truly open to the public and which are not—with consequences. Notice that whether a piece of property is open to the public or not could be crucial for legal reasons. In many unofficial spaces this is far from clear. Upon a closer reading of the precise wording of this ordinance, however, it is seen that citizens of Columbus may not relieve themselves anywhere but at a toilet—whether on public or private property. It is well established that many laws which, on their surface, appear to target only behavior wind up disproportionately affecting an entire class of people—a notion appropriately termed ‘the criminalization of homelessness’ (Mitchell, 1997; National Coalition for the Homeless and The National Law Center on Homelessness & Poverty, 2006; Smith, 1994). This is clearly one of them.

### **Trespassing in Public**

Any cursory first-hand look (along with a perusing of media reports) would seem to show that trespassing is the crime of most concern for the City in unofficial space. One simply will not encounter “No Littering” or “No Defecating” signs. In this regard, section 2911.21 of the Ohio Revised Code (O.R.C.) states, in part:

No person, without privilege to do so, shall...[k]nowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes, or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard.... It is no defense to a charge under this section that the land or premises involved was owned, controlled, or in custody of a public agency.

To this, however, case law has added “[c]riminal intent is an essential element of the statutory offense of trespass even though the statute is silent as to intent and if the act prohibited is committed in good faith under claim of right or color of title,...unless it is committed with force or violence or breach of the peace, no conviction will lie” (*State of Ohio, City of Greenville v. Westfall*). Definitionally, the O.R.C provides that “another” includes municipalities (section 2909.21). The precise meaning of a “public agency” is less clear. Deeper definitional complexities arise when it comes to “privilege.” “The term “privilege” as used in the criminal trespass statute, is further defined as an immunity, license, or right conferred by law, or bestowed by express or implied grant, or arising out of status,...or growing out of *necessity*” (Ohio Jurisprudence 3d, 2000: 1315, italics added). As an illustration of implied grant that creates a tension between meanings in (semi) unofficial space, recall the paved path passing through a fence near—but not immediately adjacent to—a “No Trespassing” sign. “Necessity excuses criminal acts when the harm from complying with a law is greater than that from violating a law, and where there is no alternative to the criminal act” (Ohio Jurisprudence 3d, 2000: 1316). Smith (1994) investigates the nuances of the necessity defense along with another potential defense to trespass and other minor offenses—duress—from the perspective of the homeless. He finds that “the necessity defense entails approval of the underlying offense; we *want* people to choose the lesser evil. Conversely, duress does not require us to approve of the offending conduct; we are required only to excuse it because we would have done the same thing in the same circumstances” (501). He contends that survival strategies—indeed necessities—of the homeless should be excused. One is forced by the will to survive to seek shelter on cold nights. One must sleep, eat and defecate *somewhere*.

The homeless, in “trespassing” on unofficial public land where signs prohibiting it are posted, are performing a “claim of right”, to use the wording in *State of Ohio, City of Greenville v. Westfall*, whether they are aware of it or not. They are also changing the nature of the public, of public space and of property (Stacheli and Mitchell, 2008). Indeed they must have a claim of right when we accept that one can’t help but to always be somewhere and that there is no space governed by private property rules that they are allowed to be (Waldron, 1991). To the extent that they act on this claim, they can be convicted of trespass only if harboring criminal intent. In other words, it may be easier to convict a homeless person in Columbus of littering than of anything else.

What of the numerous unofficial spaces in which there are no signs and no fences? “[S]ome form of communication of any restrictions on the use of land...to those entering it is essential to a successful trespass prosecution...” (*State of Ohio v. McMechan*). The aforementioned case is instructive. McMechan and a companion were found in a park after hours by a university police officer. They were arrested and charged with trespassing. McMechan claimed that he had no knowledge of the park’s hours because he entered via an unmarked path. The court of appeals ultimately found that, since the officer did not know the exact point of entry and there was no duty on the part of McMechan to seek and find posted regulations, a conviction would not result. And since “you can’t put a sign everywhere” (Franklin County official), what results is an irregular, ad hoc, unenforceable system of spatial regulation for unofficial lands. In this vein, recall the signs behind Portal Park at only one end of a linear ravine and the sign at only one end of a vacated street. Since parks are inherently more highly regulated than unofficial spaces to begin with, we can see how coherent policing of unofficial space is even more difficult,

if not impossible. There is, after all, an entire chapter (919) of city ordinances devoted to parks and no specific mention of rules on undeveloped or vacant public land.

Another pertinent concept to the present discussion can be found in *State of Ohio v. Shelton*. The defendant, Shelton, was arrested in the lobby of the sheriff's office essentially because she had become a nuisance to a deputy. She was charged with trespassing and convicted. Her conviction was overturned upon appeal when the court determined that "a person had a right to enter and be upon the public areas of public property and that a county official could not revoke such a privilege when that official found that person to be a nuisance. There was no showing that defendant lacked a privilege to be in the office" (*State of Ohio v. Shelton*). The lobby of the sheriff's office in question was open 24 hours a day. It is clear that places like a cell at the county jail or the librarian's office at the public library are not "public areas of public space." But on public *land* the distinction becomes less clear and even arbitrary. Recall, for instance, the signs that block public access to the Scioto River noted and pictured in Chapter 2. Do these signs legally divide an otherwise homogenous parcel of public property into "public areas of public space" and not? The signs change the legal and social terrain of the parcel. They make the space less free for the general public and, as a consequence, make it freer for the homeless.

### **Interventions into Homeless Space**

A search of the Columbus Code of Ordinances reveals no prohibition on camping on public property other than at city hall and in undesignated areas of parks. This contradicts Narciso's (2010) claim that in Columbus, "[c]amps are prohibited in parks and on public land..." What he is specifically referring to, however, are homeless camps. This may indeed be an



unwritten policy to which the public is not privy, but it is not in the city ordinances. This point is insignificant, though, based on a story that Narciso (2010) relates: Metro Parks rangers (who are charged with patrolling the Olentangy Trail) came upon a homeless man's campsite "near a public park" (note the lack of a clearly defined location, which the present paper argues is crucial for complete understanding) and, after investigating, "*wished [the occupant] well and left*" (emphasis added) without forming any legal judgment against the man and his situation.

10TV in Columbus reported that the City was trying to find homes for those it displaced after posting "No Trespassing" signs "on an empty stretch of land near downtown" (2010). "Police said that nearby businesses and railroads complained about the homeless on their land so now they are enforcing the law" (10TV, 2010). We must ask: *where* are the police "enforcing the law" and what law are they enforcing? Presumably the City did not post the signs on private property (although everything we have learned thus far should give us pause before accepting this), so let us assume that the "empty stretch of land" is public property. It is certainly reasonable to expect that the City remove people squatting on private property when requested to do so. But what this story reveals is that the complaints of private property owners initiated an effort to, on its face, exclude not just the homeless but the wider public from public property through wholly undemocratic, unilateral means. "Enforcing the law" in this case means not just removing the homeless from private property but posting "No Trespassing" signs on public property after prompted by private interests. Either that or it means that taxpayers are subsidizing the inscribing of private property with such signs. Some of the displaced sought out shelters and others simply changed location but, "[a]ccording to the city, it will go back in the woods to see who is left" (10TV, 2010) regardless of whether the property is private, public, riparian, or right-of-way. The homeless, in this case, were apprised of what Cresswell (1996) already understood:

“That is to say, we may have to experience some geographical transgression before we realize that a boundary even existed” (22).

A report from Michigan comes closer to placing the issue directly in unofficial space when Askins (2009), in discussing a homeless encampment next to a highway ramp on land owned by the Michigan Department of Transportation, states that the message relayed by the police was “you can’t camp on land that isn’t yours.” While this seems clear enough, it skirts any specific legal issues. Trespassing is apparently not the issue. Camping itself, even while specifically mentioned, doesn’t appear to be a contentious point of law breaking. It is, rather, who is doing the camping and where. A conglomeration of factors—public property, the homeless, camping, police opinion, the dissonance of tents next to a highway—complicates matters and forces all parties to improvise. The police find themselves concocting a statute. The conclusion reached must (should) be tied to a matter of law, but it isn’t because the statement “you can’t camp on land that isn’t yours” is false in general. Trespassing charges were filed but not pursued because the campers were at some point given an undetermined amount of time to move—unbeknownst to some involved with the case (Aisner, 2010). In other words, they were given a defense to trespassing charges—permission—just as Mike Pettigrew of ODOT gave me permission to enter their mitigation area after claiming that “technically” I could be arrested for trespassing when he said: “You can go back there; nobody will ever know” (personal communication).

Another incident of intervention, this time into purely unofficial space in Columbus, was reported by Hagan (2007). The article does not explicitly mention trespassing as an issue. Instead, the issue was about crimes of appearance. The City initiated a process to relocate and house members of a number of homeless encampments in the woods and along the railroad

tracks behind what was then the police impound lot (see Chapter 2). Hagan paints a picture of a perturbed nearby (housed) resident named Bush who insists that the City use a “heavy foot” on the homeless within view of his backyard. Bush recounts a story of how, late one night as he was parking his motorcycle, someone from across the railroad tracks yelled to him to be quiet. Hagan quotes him thus: “So now I have to be quiet so the homeless can sleep? That’s too much.” The irony is lost on him that he apparently values the opinions of homeowners more, but he’s probably disturbing them too. Hagan relates that Bush is also tired of the thefts, panhandling, litter and makeshift structures (going up without a building permit, he adds) within sight of his home. Again there is no recognition of irony or stereotype—one can rarely, if ever, *see* a person known to be homeless break the law; and building permits, one would think, require ownership of property. Prevention of crime and simple aesthetics are oft-cited reasons of public interest in the criminalization of the homeless but the connections are weak (Smith, 1994). In fact, “the homeless population...represents a greater threat to our complacency than to our safety” (Rosemary Johnston, quoted in Staeheli and Mitchell, 2008). To quote Hagan (2007) again: “Mary Carran Webster, assistant public service director for Columbus...added that police know which camps have people who are committing crimes, and that they don’t necessarily know that the homeless living on Whittier Peninsula are panhandling and committing other crimes.” Besides wrongly implying that panhandling is a crime, the general statement that the police know which camps have criminals is contradicted by the more specific statement that they don’t know whether Whittier Peninsula’s campers are criminals. Such is the incoherent legal foundation and rhetoric surrounding intervention. The homeless in this case appear to have been moved simply because they were in view. Protecting the public from a hypothetical threat from the homeless by removing them is a difficult argument to make for two reasons. First, there is no

necessary link between the state of being homeless and criminality—having an apartment does not prevent one from committing crimes. Second, keeping the homeless on the move might actually make the wider public less “safe” because now the displaced individual has no security, no shelter and will be searching for new supplies and new space.

This last report contrasts with other areas where the homeless are out of sight—and left alone—even though their presence is known to the police. The following was related to me by a homeless individual that shall remain anonymous. He and a handful of other people live in a wood on the north side of the Scioto River on the edge of a city-owned parcel and the ODOT wetland mitigation site (see Chapter 2). There are no signs pertaining to the land they occupy, only to the nearby dam and its associated infrastructure. Importantly, I contend, there are no businesses or homes anywhere nearby. One winter day, a police officer noticed that this man’s shoes were inadequate for the cold and snow and offered to return later with a pair of boots. He did. But in addition, the officer brought “boxes” of helpful supplies. In one place, the police help and even enable the homeless to live on unofficial public property and in another, are instrumental in removing them. The homeless man believes that their location and low profile keep their relationship with the police cordial. He has lived in numerous other areas around Columbus which have resulted in various degrees of difficulty with the police and other homeless people.

A number of homeless individuals have confirmed what social worker Ken Andrews has told the author. That is, the City has long been known to tell people living in certain areas—specifically, vacated Scioto Blvd. and the county-owned wood at the Confluence—that condominiums will soon displace them. The view from (outer) space and a first-person look at the lands in question reveal the difficulty of such an undertaking given existing businesses and

railroad tracks, respectively. And they have yet to come to fruition. Referring again to *The Riverfront Vision* first cited in Chapter 2, there is a drawing showing a housing development where Scioto-Audubon Metro Park now exists with a caption that reads: “Residential neighborhoods will complement the new riverfront park on the Whittier Peninsula” (Riverfront Commons Corp., 1998). Experience shows how quickly plans can fade.

All of the situations described above show that laws, opinions and norms tied to space often control or affect outcomes in that space. These social phenomena are fluid and are being continuously composed and altered by the actors through the relevant spaces. The outcomes are, in large part, a function of the spaces. Judgments and opinions only enter the spaces to the extent that the nature of the spaces allows for them to. Stories such as these, in the words of David Delaney, “are better seen as enactments *of* space...rather than behaviors *in* space” (2010: 15).

After all this has been said and after all the signs have been posted, trespassing per se is actually *not* the issue at hand. The incongruous location of many signs bears this out. And so do the words of Kevin Conley, a 29-year veteran of the Columbus Police Department, who, when affirming the validity of trespassing charges that could be filed against the man described previously as camping “near a public park” said “I don’t remember the last time we did make such an arrest” (quoted in Narciso, 2011). Sure, trespassing charges could be filed, but would they result in a conviction? There are no posted hours for parks along the Olentangy Trail and the only “No Trespassing” signs are between Third and Fifth Ave. One cannot trespass in a park that has no posted hours. How can one trespass in an adjacent space that is far less regulated than a park? Trespassing is often how the conundrum of homelessness manifests itself in the legal imagination of the police and the wider public for lack of a more immediate crime being

committed. It is a front, in other words, for an incoherent, unwritten rule for controlling the location of the homeless that plays out unevenly across the city.

Erika Clark-Jones, Columbus' mayor-appointed homeless "advocate", sums up the City's policy toward the homeless that live where they are not allowed: "We extend every possible olive branch, and if they don't take advantage of it, *eventually we have to shut their camp down*" (quoted in Narciso, 2010, emphasis added). So there you have it. If you are homeless in Columbus, you are unequivocally not allowed to live anywhere but in shelters or in housing that the City finds for you. This is so even though you may be on public property, there are no "No Trespassing" signs, you are not breaking any law, there is no ordinance readily found that outlaws camping, and there is no parcel of private property on which you are allowed to be. If you are homeless you must stay constantly on the move or risk having whatever sliver of freedom you thought you had taken away, for if you set up a semi-permanent camp, it is only a matter of time before your camp will be closed—no reference to any law is required. This is the Columbus brand of homeless criminalization. Yet homeless camps persist in the face of this rhetorical banning because it is, in practice, unenforceable and not always enforced. We have seen that the City picks and chooses which camps to break up regardless, it seems, of whether signs are posted or not.

From this discussion, we can conclude that one important factor for controlling unofficial space and its various hybrids is the opinion of the police officer that intervenes into such space on behalf of the home- and business-owning public. The police, says expert Richard Lundman, are "always situationally correct" and while courts can, after-the-fact, strike down laws or police action, that makes no difference on the ground at the time of interaction (personal interview). Lundman continues: the police see themselves as working for the taxpaying public and will push



out of sight those that impinge on the view of this public and do so with impunity at the request of that same public; “it’s just that simple.” The other important factor, as has already been argued, is the agency of homeless in finding, occupying and claiming the spaces that they use. Their simple presence is enough to challenge and partially mold any response against them. The homeless, in effect, are *making* these spaces public where otherwise they would not be.

At this juncture it is important to ask: what authority does the City of Columbus, the county, or the state, have to regulate its property? What rationale is used to determine who belongs where? “A state [and by extension, a city], no less than a private owner of property, has power to preserve the property under its control for the use to which it is lawfully dedicated” (*Adderley et al. v. Florida*). But to what “use” is unofficial greenspace “lawfully dedicated”? One of the principal points of this paper is that unofficial greenspace, by definition, is not dedicated to *any* use. “The full power to control and use its property for any public purpose is vested in a municipal corporation” (Gotherman et al., 2004, Vol. 1, section 16:6). What constitutes a “public purpose” of unofficial greenspace? According to “No Trespassing” signs, there is no public purpose to some unofficial space even though the space itself may be indistinguishable from, say, a park. Public safety (grounds for exclusion according to the county official I spoke with), is simply not a legitimate rationale for posting signs that exclude people from land that is materially identical to that of a park. There “exists express statutory authority for municipal corporations to acquire and hold property for any municipal purpose” (Gotherman et al., 2004, Vol. 1, section 16:1). The only conceivable “municipal purpose” for most unofficial space is as space for use by the public. The law is littered with definitional complications and these are clearly much more pronounced when thinking in terms of already undefined public

space. If a space has no definition, how can we effectively use guidelines that rely on definitions?

## **Liability**

A rationale for exclusion from certain public spaces is liability. In making an area a park, for instance, the city or other regulating body takes on a certain amount of legal responsibility and liability for the park (John Simpson, landscape architect, personal interview). Mike Pettigrew, from ODOT, specifically mentioned liability as a reason to prevent access to the wetland mitigation site (personal communication). But to what degree is the City or ODOT liable if someone is injured in unofficial greenspace? Case law and statutory law suggest that this liability is minimal, so this paper argues that calculations of liability and public safety (noted above) should not be used as rationales for excluding either the homeless or the public-at-large from verifiably public property that has no other “public purpose” other than as space that members of the public can be in.

In Ohio, “[e]ffective April 9, 2003, municipalities are immune from liability for their repair, operation and maintenance of parks, playgrounds and playfields” (Gotherman et al., 2004, Vol. 2, section 32:33). It is difficult to find, in the list of exceptions noted by these authors, anything that would apply on undesignated city property because they generally apply to buildings and structures, not land. “A pond or creek in a public park is not a nuisance, even though such waters are not surrounded by rails or guards as a protection to children using the park” (Gotherman et al., 2004, Vol. 2, section 32:33). If water is not a nuisance in a park, where the public is expected to visit, then logically, water bodies on other public parcels where far fewer people can be expected, do not constitute nuisances. And it would be difficult to construe

the ground as being a nuisance. Any sort of negligence of duty on the part of an employee or agent of the city would also be difficult to show since neglect is inherent in unofficial spaces.

Ohio law makes a distinction between the duties of care owed by a property owner to a trespasser, licensee and invitee. This, in turn, will determine liability for an injury. Notes in the case of *Pride v. Cleveland State University* are instructive at present:

A trespasser is one who enters the premises of another without right, lawful authority, or express or implied invitation or license. The standard of care owed by property owners to an undiscovered trespasser is only to refrain from injuring him by willful or wanton conduct.... A person who enters the premises of another by permission or acquiescence, for his own pleasure or benefit, and not by invitation, is a licensee. The standard of care owed by property owners to a licensee is to refrain only from wantonly or willfully causing injury.... Invitees are persons who come upon the premises of another, by invitation, express or implied, for some purpose which is beneficial to the owner. The owner of a premises must exercise ordinary care to protect an invitee from unsafe conditions.

This means that the City is essentially absolved from liability in a space behind “No Trespassing” signs (presumably even though the legitimacy of many signs is in question). In acquiescing to the use of some spaces and giving (temporary) permission to the homeless to live other places, the City is again essentially absolved. The public is openly invited to use parks. I will not attempt to question if this is “beneficial” to the owner of a park because benefit could simply lie in fulfilling an obligation to promote the public good. Here the duty of care is higher. In the case cited above, *Pride v. Cleveland State University*, the plaintiff, Pride, a homeless man, was found not to be owed damages after he fell into an uncovered ventilation shaft—regardless

of whether he was a trespasser or a licensee. In a case from New York City where a man trespassing in a park after hours was chased by the police and suffered a broken leg as a result, the court found the City not to be liable (O'Brien Ahlers, 2007).

So an important question is, again, are unmarked areas of unofficial space open to the public for use? The City often simply acquiesces to their use as we have seen. More specifically, for the purpose of distinguishing whether a visitor to unofficial space is a licensee or an invitee, does the physical character of a particular area imply that entry is by permission or invitation? This determination is clearly subjective and varies from space to space. Constructing a pedestrian/bicycle bridge between two unofficial spaces (see Chapter 2) would seem to invite the public into the spaces—beyond just the trail itself. However, “[a] political subdivision is immune from liability if [the harm] resulted from the exercise of judgment or discretion in determining whether to acquire, or how to use, equipment, supplies, materials, personnel, facilities, and other resources unless the judgment or discretion was exercised with malicious purpose, in bad faith, or in a wonton or reckless manner” (Ohio Revised Code, 2744.03 (A) (5)). Ultimately, it would seem as though no matter what decision a municipality makes—consciously or unconsciously—regarding the use of unofficial lands, the likelihood of a court finding it negligent for injuries sustained therein is very slim indeed.

## **The Railroads**

“Railroads think they’re government, but they’re not.”

--Franklin County official

Why would this be so? Perhaps it is because they very rarely pay property taxes, as shown in Chapter 2. Perhaps it is because they are lawfully able to maintain their own police forces (Ohio Revised Code, section 4973.17) and any county in which their officers make an

arrest are required to jail the arrestees at taxpayer expense (Ohio Revised Code, section 4973.19). Or perhaps it is because, as Johnston (2007) shows, freight companies are absolved from any liability when Amtrak trains (which are government owned) crash on their tracks due to lax repair practices initiated by the freight carriers. This section explores some interesting facts about railroad police and property in the law and in practice while arguing that railroad parcels, instead of being distinctly private are in fact “quasi public-private” (Savage, 2007) and quasi-unofficial places where railroads bear little responsibility to protect the public.

Railroad property is integral in the making of numerous unofficial spaces and in many instances possesses itself some unofficial characteristics. Railroads own a vast amount of land in Columbus, many of which merges seamlessly with parcels of public property. The distinction is sometimes imperceptible because some railroad property has no obvious connection to railroad tracks and it is often impossible to see where railroad property ends and public property begins. Tracks sometimes preclude the development of certain parcels which no private individual would ever want, thus they become public and unofficial. In addition, railroad police officers at times engage the homeless that use their employers’ land and adjacent land but the geographical authority of the railroad police is vague. For these reasons a section devoted to railroads is warranted. I argue that railroad companies complicate spatial matters on and around their property and generally add to the level of uncertainty when it comes to access and regulation. Who has overarching jurisdiction on railroad parcels—Columbus police officers or those employed by the railroads? Recall the report by 10TV (2010) discussed above in which it was stated that “businesses and railroads complained about the homeless on their land.” The City was the entity that posted signs and removed the homeless. If railroads maintain private police forces to protect their property, why should the City have to intervene on railroad property? Why

should railroads benefit from the local police who are funded through property taxes if they don't pay taxes on the vast majority of their parcels?

Federal law defers the precise spatial limitations of a railroad police officer's authority to the states:

The railroad police officer's law enforcement powers shall apply only on railroad property, except that an officer may pursue off railroad property a person suspected of violating the law on railroad property, and an officer may engage off railroad property in law enforcement activities, including, without limitation, investigation and arrest, if permissible under state law. (Electronic Code of Federal Regulations, Title 49, Section 207.5 (4) (d)).

Turning now to the Ohio Revised Code, we see that "the secretary of state may appoint and commission any person that the railroad company designates...to act as police officers for and on the premises of the railroad company...or elsewhere, when directly in the discharge of their duties" (4973.17 (B)). Since railroad police have full arrest power, should they not be vetted by the state rather than the employing company? "In none of the forty-one states [that allow for railroad police] are there criteria for the denial of status as a railroad policeman. Presumably, the railroad has total discretion" (Dralla et al., 1975). The Codes continue: "Policemen so appointed and commissioned shall severally possess and exercise the powers of, and be subject to the liabilities of, municipal policemen while discharging the duties for which they are appointed" (4973.18). Yet the codes do not clarify what those duties are and where they are to be performed. "Railroad police officers are given all the powers of municipal police officers and are authorized to exercise them in performing their duties on behalf of the railroad, and their acts are *presumed* to be within their official duties" (Clouse, 1986, emphasis added). Federal law states that they are



to enforce laws only to protect employees, passengers, patrons and property of or entrusted to, the railroad (Electronic Code of Federal Regulations, Title 49, Section 207.5). Effectively, federal defers to Ohio who defers back to federal law.

In the meantime, railroad police officers are much “harsher” toward the homeless than Columbus Police as they intervene into the (now infamous) county-owned woods (see Chapter 2) to speak of a “50 yard buffer zone” on either side of the railroad tracks. (Ken Andrews, personal interview). There are private homes within 50 yards of railroad tracks, of course, and this concept is nowhere to be found in the relevant statutes. In another account, however, the railroad police, when dealing with a relatively large camp on railroad property (the camp noted in Chapter 2 that was broken up in 2006 by the City), simply said “just stay off the tracks” according to Craig, a former resident of the camp (personal interview). Just as with the City and its officers, then, it appears that regulation and attempted enforcement is ad hoc, spatially uneven and often improvised. A lie can give an intervening officer or city official temporary legitimacy in unofficial space that is meant to plant a spatial restriction on movement in the mind of a homeless person. Recall for instance, “there are condos going in here” and “there is a 50 yard buffer zone.”

There is a troubling dearth of regulation and oversight when it comes to the private police industry in general (Furst, 2009; Clouse, 1986; Dralla et al., 1975) and private police action on the ground may differ significantly from what does exist in the law (Furst, 2009). Members of the public are left exposed to possible violations of their rights as long as powers and limitations of special police are not clearly defined (Clouse, 1986). The ambiguities of unofficial space feed and strengthen the anomalous character of railroad properties and police powers, and conversely. People, laws and other forces easily move across the porous boundaries between railroad tracks

and publicly owned property. These boundaries can be physical or discursive; and the associated porosity can be figurative or actual—as in the many unfenced railroad rights-of-way.

There is a public interest rationale for protecting and fencing tracks that railroads and their police officers do not hold in common with the rest of society. “In 2005, 471 people died while trespassing on the railroads in the United States (Savage, 2007). But railroads are not liable for deaths or injuries to trespassers even if habitual trespassing by the public is known to the railroads (*Hagood v. Grand Trunk Western Railroad Co. et al.*; *Sutton et al v. Wheeling & Lake Erie Railroad et al.*; *Boydston et al. v. Norfolk Southern Corp. et al.*). Railroads have no incentive to fence their tracks because “there is no duty under Ohio law to take precautions to prevent trespass” (*Hagood v. Grand Trunk*) and trespassers, as we have seen, are owed a very minimal duty of care. “Even a failure to post a notice warning the public not to trespass cannot reasonably be construed as an expression of consent to the intrusions of persons who habitually and notoriously disregard such policies” (*Boydston et al. v. Norfolk Southern Corp. et al.*). It is curious why signs are posted at all—by government or by railroads—because liability doesn’t change either way and public safety doesn’t appear to be much of an issue. Savage (2007) belies “the popular image of trespassers as ‘hoboes or tramps’” (208) by citing two studies that found only 10% and 9% of trespasser fatalities were “homeless” or “transients,” respectively. The public police and the railroad police have fundamentally different duties. The former’s are to protect and serve the public while the latter’s are to protect and serve their employer. How can these be squared in a manner to promote the public’s welfare and the rights of the homeless?

## Chapter 4

### Conclusions

To bring this tour of unofficial space and the concomitant inquiry into its peculiarities around full circle (at least for me), allow me to comment on my own backyard—actually a nearly indistinguishable alley that abuts it. Sometime after I commenced exploring unofficial Columbus, I realized that I lived next door to something akin to an unofficial greenspace. The alley of which I speak is not unofficial in the sense that I have defined it (as a parcel of land) but it has many of the same characteristics. It is platted as a public street and still publicly owned but now impassable by car. The surrounding private lawns form a continuous yard through the alley. It is privately mowed, planted, maintained and used (see Figure 19, below). Some neighbors express discomfort that “kids” pass through occasionally. This is understandable because it *feels* like our property and it *feels* like a transgression when a stranger enters the space. Yet no one has suggested posting a sign because we recognize the space as public. The city, absolved of any responsibility to maintain it because of the actions of private property owners, apparently sees no need to post a sign either. This, I believe, is because the space has been appropriated for “appropriate” use. It is regulated through social norms and the landscaping activities of my neighbors; it is claimed through physical alteration. We need not worry about the homeless setting up camp here. This alley is legally and materially no different from the vacated street adjacent to Scioto-Audubon Metro Park described in Chapter 2. The only difference that seems to affect how the spaces are policed and controlled is that those who use my alley are housed.



Figure 19: A former alley that is still public. The transition to private property is nearly seamless. The simple act of placing lawn chairs is an act of appropriation—an indication that the space is claimed by the neighborhood, preempting any competing claims. The image on the right shows the boundaries of the alley—a fence on one side and power lines on the other.

Compare for a moment the unofficial spaces described herein, replete with their signs attempting to properly locate the body, their amorphous spatiality and their unconventional uses, to the well-defined boundaries, respected rules (written and unwritten), and overall spatial freedom of parks. It then seems safe to conjecture, however counterintuitive it may seem, that the more signs there are that attempt to control one's location and actions in public space, the more ambiguous the space. Signs are posted after-the-fact—only when would-be regulators perceive a loss of control over space. The homeless understand this. The longer they defy “No Trespassing” signs and the longer that the city chases them with such signs, absent any physical exclusionary force, the more the nature of the spaces they occupy changes in their favor. The homeless encampments that do sprout up in parks and along trails with high traffic volume simply don't last. The homeless, I believe, can literally *feel* the degree of control a municipality or a community has over public property and act accordingly, just as the people that pass through my alley can *feel* that it is public despite messages to the contrary. The posting of a sign to control

public space is perceived as necessary by officials only when the space is not already controlled by social norms and claimed for certain “appropriate” uses by the public.

Fundamentally, unofficial greenspace is a site of conflict among actors attempting to control hitherto uncontrolled space. Other spaces are more neatly controlled and represented while unofficial space is not. To the extent that the mechanisms that normally control space are weak or vague in unofficial space, the door is open for new forms of social control and new actors to work their way in. There are weaknesses in de jure regulations that lead to perhaps unintended de facto conditions in unofficial space. The extent of signage in a given area is inversely proportional to the degree of control that public custodians of the land feel that they have. The extent of signage also appears to be a function of the unofficial space’s visibility from, and proximity to, downtown, residential areas and businesses—presuming that the space isn’t already regulated by the mainstream public.

Credit goes to geographer Kendra McSweeney for recognizing that the kind of land investigated here represents both an opportunity and vulnerability for the homeless. Here the homeless have a place to subsist and find some degree of autonomy. A sense of security is derived when one can be reasonably certain that one’s shelter and meager belongings will remain out of view and safe from confiscation. Unofficial greenspace is a bulwark for the homeless against the violence of property. Vulnerability originates from that sense of security suddenly being taken away through a decision of a police officer (most likely compelled by a complaint by another member of the public) or a City official that may or may not be based on any legal foundation. I liken living behind a “No Trespassing” sign to possessing drugs or stolen property. Being in such a position, one is continuously breaking the law. There is no escape and no safe place. How must it be, how must it feel, to exist in such a manner as to be in constant violation of

the law merely by virtue of where, on open and free and public land, one stands? Kleinig (1993) nicely summarizes a reasonable moral stance on the issue of homelessness:

The bottom line is that human beings who warrant our respect and regard and whose basic needs are not being adequately met, are socially present to us, and by virtue of that demand our response. While we may, if we choose, foster a society in which their presence is disregarded, I think that there is a much stronger argument for claiming that their needs generate a claim upon the rest of us to do what we can to alleviate their situation and remove its causes. (294)

Note that the indiscriminant closing of camps is not explicitly mentioned as a solution.

Homelessness has many causes and thus not one solution.

It has been found that among the homeless exists a “hunting-and-gathering subsistence strategy, in which mainstream society’s detritus—abandoned buildings, scavenged food, discarded clothing, or recyclable goods—is mined for its subsistence potential...” (Koegel et al., quoted in Smith, 1994: 487). To this list it is absolutely essential that we add *land* as a detritus of society which the homeless use for subsistence. With so many parcels of public land in Columbus glossed over, forgotten and unaccounted for in law, policy and maps and by middle class society; and with the wider public seemingly barred from them or reluctant to infiltrate them, the homeless are left free to appropriate them and render them useful. Were it not for the homeless—as members of the public—laying claim to these public lands, what would become of them? There would be no conflict; there would be no intervention; there would be no continuum of public space from the unofficial to the highly regulated. Unofficial parcels would remain out of sight and out of mind. There would be only clean, safe, sanitized spaces. We would have only the typical types of public property—streets and parks—which “have immemorially been held in

trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions” (Justice Roberts, quoted in *Adderley et al. v. Florida*). The homeless effectively force us to expand our definition of public space and also our conception of traditional activities in public space. Is a homeless camp not a peaceful assembly in general? Could a camp be viewed as a subtle petitioning of the government for a redress of grievances? Despite the discomfort it brings us, by their very presence and visibility the homeless force the rest of society and the government to see that there have been failures in our system—people have fallen through the cracks, we say. When these people choose freedom of movement and autonomy over the crowded and often unsafe conditions in shelters, they seem to end up in unofficial greenspace. This paper has shown that land, like people, can fall through the cracks. It is perhaps no coincidence that those people end up on that land. Unofficial space operates as a kind of safety net for the homeless which should not be allowed to slip away through heavier regulation.

When we consider the plight of the homeless we must necessarily consider where they live. Conversely, when we consider *that* particular kind of space, so we must also consider the homeless. This link is how unofficial greenspace gains prominence and how it can become a crucial, coherent, and insight-yielding unit of analysis in urban geography. This concept is lurking just below the surface of many avenues of entry into the study of urban geography and public space. What is lacking in some accounts is exactly *where* certain processes are unfolding and *where* broad concepts apply and play out—“in public” or “downtown” or “near the river” isn’t good enough. Those investigations that do consider place invariably leave out unofficial public spaces or group them into some more general category. We have seen that in academia, in the media, in the government and in the law, unofficial spaces are left unexamined and partly

unaccounted for. We have also seen that the homeless tend to force a consideration of these spaces and vice versa. It is important to now begin to gain a deeper understanding of public property of this nature for legal and philosophical reasons and, most importantly, for reasons of justice for the homeless. The elimination of one's space of last resort—whether attempted or actual—is a civil rights violation tantamount to criminalizing one's existence. This space of last resort, of course, is likely undefined, undesignated, derelict, anomalous, and ripe for appropriation—in short, unofficial.



## Bibliography

10TV News. "After Complaints, Columbus Kicks Out Homeless Camp." 6 January 2010. Web.

Accessed 6 May 2011.

<http://www.10tv.com/live/content/local/stories/2010/01/06/story-columbus-homeless-camps.html?type=rss&cat=&sid=102>

*Adderley et al. v. Florida*. 385 U.S. 39 (1966).

Aisner, Art. "Washtenaw County prosecutors dismiss trespassing charge against homeless camp leader." *Ann Arbor.com*. 5 Jan 2010. Web. Accessed 25 April 2011.

<http://www.annarbor.com/news/washtenaw-county-prosecutors-dismiss-trespassing-charge-against-homeless-camp-leader/>

Andrews, Ken. Social Worker. Personal Interviews. 26 March 2011, 23 April 2011.

Askins, Dave. "Laws of Physics: Homeless Camp Moves." *The Ann Arbor Chronicle*. 2 September 2009. Web. Accessed 25 April 2011.

<http://annarborchronicle.com/2009/09/02/laws-of-physics-homeless-camp-moves/>

Babcock, Hope M. "The Public Trust Doctrine: What a Tall Tale They Tell." *South Carolina Law Review* 61 (2009): 393-414.

Blomley, Nicholas K. *Unsettling the City: Urban Land and the Politics of Property*. New York: Routledge (2004).

*Boydston et al. v. Norfolk Southern Corp. et al.* 73 Ohio App. 3d 727 (1991).

Clouse, Karen L. "Special Police: A Benefit or a Threat?" *Ohio State Law Journal* 47 (1986): 261-275.

Columbus Code of Ordinances. Web. Accessed April 8, 2011.

<http://library.municode.com/index.aspx?clientId=16219&stateId=35&stateName=Ohio>  
>

- Cresswell, Tim. *In Place Out of Place: Geography, Ideology, and Transgression*. Minneapolis: University of Minnesota Press. (1996).
- Delaney, David. *The Spatial, the Legal and the Pragmatics of World-Making*. New York: Routledge (2010).
- Domzalski, Dave. "The Authority of the Railroad Police." *Police Chief Magazine*. Vol LXXVII. March 2009. Web. Accessed April 25, 2011.  
[http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=print\\_display&article\\_id=1759&issue\\_id=32009](http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=print_display&article_id=1759&issue_id=32009)
- Dralla, Gloria G. et al. "Who's Watching the Watchman? The Regulation, or Non-Regulation, of America's Largest Law Enforcement Institution, the Private Police." *Golden Gate University Law Review* 5. (1975): 433-483.
- Duncan, James. "Men Without Property: The Tramp's Classification and Use of Urban Space." *Antipode* 10 (1978): 24-24.
- Dunning, Harrison C. "The Public Trust: A Fundamental Doctrine of American Property Law." *Issues in Legal Scholarship*. Joseph Sax and the Public Trust, Article 5 (2003).
- Electronic Code of Federal Regulations, Title 49. Web. Accessed 27 April 2011.  
[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=b94b6e54274735132551371cf9575beb&c=ecfr&tpl=/ecfrbrowse/Title49/49cfrv4\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=b94b6e54274735132551371cf9575beb&c=ecfr&tpl=/ecfrbrowse/Title49/49cfrv4_02.tpl)
- Franklin County Official (anonymous). Personal Interview. 6 January 2011.
- Furst, Alexander. "State Regulation of Private Police and Security Agents." MS thesis. Bowling Green State University, 2009.
- Gotherman, John E., Harold W. Babbitt, and James F. Lang. *Baldwin's Ohio Practice*. 1<sup>st</sup> ed. 1<sup>st</sup> vol. Cleveland: Thomson/West (2004).
- Gotherman, John E., Harold W. Babbitt, and James F. Lang. *Baldwin's Ohio Practice*. 1<sup>st</sup> ed. 2<sup>nd</sup> vol. Cleveland: Thomson/West (2004).

- Hagan, Sue. "Columbus hoping to clear homeless camps." ThisWeek Community Newspapers (German Village). 21 June 2007. Web. Accessed 6 May 2011.  
<[http://www.thisweeknews.com/live/contentbe/EPIC\\_shim.php?story=sites/thisweeknews/062107/GermanVillage/News/062107-News-373274.html](http://www.thisweeknews.com/live/contentbe/EPIC_shim.php?story=sites/thisweeknews/062107/GermanVillage/News/062107-News-373274.html)>
- Hagood v. Grand Trunk Western Railroad Co. et al.* Ohio App. 1d. Case No. C-890724 (1991).
- Harley, J. Brian. "Maps, knowledge, and power." *Geographic Thought: A Praxis Perspective*. Ed. George L. Henderson and Marvin Waterstone. New York: Routledge, 2009. 129-148.
- In Re Eichorn. 69 Cal App. 2d 382 (1998).
- Johnston, David C. *Free Lunch: how the wealthiest Americans enrich themselves at government expense (and stick you with the bill)*. New York: Portfolio (2007).
- Lundman, Richard, Professor of Sociology. Personal Interview. 28 April 2011.
- Mair, Andrew. "The homeless and the post-industrial city." *Political Geography Quarterly* 5 (1986): 351-368.
- Mitchell, Don. "The End of Public Space? People's Park, Definitions of the Public, and Democracy." *Annals of the Association of American Geographers* 85 (1995): 108-133.
- Mitchell, Don. "The Annihilation of Space by Law: The Roots and Implications of Anti-Homeless Laws in the United States." *Antipode* 29 (1997): 303-335.
- Mitchell, Don. *The Right to the City: Social justice and the fight for public space*. New York: Guilford Press (2003).
- National Coalition for the Homeless and the National Law Center on Homelessness & Poverty. "A Dream Denied: The Criminalization of Homelessness in U.S. Cities." January 2006. Web. Accessed 6 May 2011.<  
<http://www.nationalhomeless.org/publications/crimreport/report.pdf>>
- O'Brien Ahlers, Kate. "NYPD Prevails in Case Where a Man Trespassing After-Hours in a City Park Sues over Broken Leg." New York City Law Department. 8 March 2007. Web. Accessed 8 April 2011.<  
<http://www.nyc.gov/html/law/downloads/pdf/pr030807.pdf>>

Ohio Department of Transportation (ODOT), Office of Environmental Services. *Fifth Year Monitoring Report for FRA-670/315-1.25/0.00 (PID 4346) Wetland Mitigation Site*. 5 December 2006. Web. Accessed 17 April 2011. <  
[http://www.dot.state.oh.us/Divisions/TransSysDev/Environment/Ecological\\_Resources/Permits/MitigationInventory/Documents/Franklin\\_670\\_315/fra\\_670\\_315\\_year\\_5\\_comp.pdf](http://www.dot.state.oh.us/Divisions/TransSysDev/Environment/Ecological_Resources/Permits/MitigationInventory/Documents/Franklin_670_315/fra_670_315_year_5_comp.pdf)>

Ohio Jurisprudence. *Criminal Law* 3d. Vol 27. West Publishing (2000).

Ohio Revised Code. Web. Accessed 8 April 2011. <<http://codes.ohio.gov/orc>>

Parks, Kevin. "Problems at tiny park reveal differing views." *ThisWeek Community Newspapers* (Clintonville). 8 September 2010. Web. Accessed 11 April 2011.  
 <<http://www.thisweeknews.com/live/content/clintonville/stories/2010/09/08/problems-at-tiny-park-reveal-differing-views.html>>

Pettigrew, Michael. Ecolgist, Ohio Department of Transportation. Personal Communications. February 2011.

"Police crack down on homeless activity, advocates question motives." *The City Paper* [Nashville]. 30 November 2007. Web. Accessed 25 April 2011.  
 <<http://nashvillecitypaper.com/content/city-news/police-crack-down-homeless-activity-advocates-question-motives>>

*Pride v. Cleveland State University*. 73 Ohio Misc. 2d 45 (1995).

Riverfront Commons Corporation, Columbus. *The Riverfront Vision*. March 1998. Web. Accessed 6 May 2011. <  
<http://knowlton.osu.edu/library/files/ColumbusRiverfrontPlan.pdf>>

Savage, Ian. "Trespassing on the Railroad." *Research in Transportation Economics* 20. (2007): 199-224.

Simpson, John. Professor of Landscape Architecture. Personal Interview. January 2011.

Smith, David M. "A Theoretical and Legal Challenge to Homeless Criminalization as Public Policy." *Yale Law & Policy Review* 12 (1994): 487-517.

Staeheli, Lynn A. and Don Mitchell. *The People's Property?: power, politics, and the public*. New York: Routledge (2008).

*State of Ohio v. McMechan*. 48 Ohio App. 3d 261 (1988).

*State of Ohio v. Shelton*. 63 Ohio App. 3d 137 (1989).

*State of Ohio, City of Greenville v. Wesley Westfall*. Ohio App. 2d. Case No. 897 (1975).

*Sutton, Leroy et al. v. Wheeling & Lake Erie Railroad et al.* Ohio App. 9d. Case No. 22642 (2005).

Waldron, Jeremy. "Homelessness and the Issue of Freedom." *UCLA Law Review* 295 (1991-1992): 295-324.

Wikipedia. "Marble Cliff Quarry Co." Web. Accessed 7 May 2011.

<[http://en.wikipedia.org/wiki/Marble\\_Cliff\\_Quarry\\_Co.](http://en.wikipedia.org/wiki/Marble_Cliff_Quarry_Co.)>